



# Daf In Review – Weekly Chazarah

## Maseches Yevamos, Daf 7 – Daf 77

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vI'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

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### MISHNA

- The brother who does chalitza, shares in the estate of the dead brother, just like all the other brothers. If there is a father, he inherits the estate before all the brothers.
- The brother who does yibum inherits the entire estate from the dead brother, even if there is a father still alive. **R' Yehuda** says, in both cases, if there is a father, he inherits before the brothers.

### GEMARA

- **Q:** It seems obvious that if he does chalitza he should not get more than the other brothers!? **A:** We would have thought that chalitza is in the place of yibum, and just as one inherits the estate when he does yibum, the same would hold true when he does chalitza.
  - **Q:** If so, the Mishna should say “he is *only* like one of the brothers”, not that he is “just like one of the brothers”!? **A:** We would have thought that since he decided not to do yibum, we should penalize him and not give him any share in the estate at all. The Mishna therefore teaches that he is just like the other brothers, and still gets his share.

### IHM YESH SHAM AV

- This is based on what we have learned that a father inherits a childless son before any other relatives.

### HAKONES ES YEVIMTO...

- The Halacha that he inherits the brother's estate is based on the pasuk that says “yakum ahl shem achiv”.

### R' YEHUDA OMER...

- **Ulla** and **R' Yitzchak Nafcha** pasken like **R' Yehuda**. The reasoning of **R' Yehuda** is based on the pasuk of “vehaya habechor asher teileid”. The pasuk compares the yavam to a bechor – just like a bechor is entitled to something extra, and he does not receive anything while the father is alive, the same is true with the yavam.
  - **Q:** If so, then just as a bechor gets a double portion from his father's estate, the yavam should also get a double portion after the father dies!? **A:** The pasuk says “yakum ahl shem *achiv*”, not “ahl sehm *aviv*”.
  - **Q:** Maybe we should say that the mitzvah of yibum should only be done when there is no father, and the yavam stands to inherit the estate of the brother!? **A:** The mitzvah of yibum is nowhere said to be contingent upon the yavam's right to inherit. The inheritance is only a side result of the mitzvah of yibum.
  - **R' Chanina Kara** paskened like **R' Yehuda**, but **R' Yannai** told him that his psak is incorrect. We also find that **R' Nachman** paskened like the **Rabanan**.

### MISHNA

- When one does chalitza, he becomes assur to her relatives, and she becomes assur to his relatives. He may not marry her mother, maternal grandmother, paternal grandmother, daughter, daughter's daughter, son's daughter, and her sister for as long as the chalutza is alive. However, the other brothers may all marry these relatives. She may not marry his father, father's father, son, son's son, his brother, or his brother's son.
- A person is mutar to marry the relatives of the tzara of his chalutza, but he may not marry the tzara of the relative of his chalutza.

### GEMARA

- **Q:** Were the **Rabanan** goizer the shniyos in the case of a chalutza (whose relatives are only assur D'Rabanan), or were they only goizer shniyos in a case of an erva D'Oraisa? **A:** The Mishna says that he is assur to marry her

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grandmother, but does not prohibit her great-grandmother. This would suggest that shniyos were not instituted for a chalutza.

- It may be that we only mention a grandmother, because the Mishna goes on to say that the other brothers are allowed to marry these people. Had we said the case of “great-grandmother”, we would have said that even the other brothers are only mutar to the great-grandmother, but not the mother or grandmother. That is why we only mentioned the cases of mother and grandmother.
  - **Q:** If so, why can't the Mishna mention all the cases, and then say that the other brothers are mutar in *all* the cases!? **A: Kashyeh.**
- **Q:** The Mishna says she may not marry his father's father. Presumably this is because she is like the daughter in law of his son (like a wife of the one who gave the chalitza), which is a shniya, and we see that it is assur!? **A:** She is assur to him as the *actual* daughter in law of his son (wife of the one who died), and that is why she is assur.
- **Q:** The Mishna says that she is assur to his grandson. Presumably this is because she is his grandfather's chalutza, which would be a shniya!? **A:** She is assur to him as the wife of his grandfather's brother (the dead brother), which is a shniya.
  - **Q:** We find that **Ameimar** said that a grandfather's brother's wife is not a shniya at all!? **A:** **Ameimar** will have to say that the Mishna is not referring to the grandson of one who gave chalitza, rather it is referring to the grandson of the father of the one who gave chalitza, which is the nephew of the one who died, and he is therefore assur to the yevama.
    - **Q:** That is the same case as the “brother's son”, which is separately listed in the Mishna!? **A:** One refers to the paternal brother's son and one refers to the maternal brother's son.
- **Q: R' Chiya** says in a Braisa that the chalutza becomes assur to 4 men that would be assur to her D'Oraisa if she would have married the yavam, and to 4 men who would have been assur to her D'Rabanan (his father's father, his mother's father, his son's son, and his daughter's son). Presumably, she would be assur to his grandfathers as being the chalutza of the yavam, and that would only be a shniya!? **A:** She is assur to them as the wife of the one who died, not for being the chalutza of the yavam.
  - **Q:** The Braisa says that she is assur to his son's son. Presumably this is because she is his grandfather's chalutza, which would be a shniya!? **A:** She is assur to him as the wife of his grandfather's brother (the dead brother), which is a shniya.
    - **Q:** We find that **Ameimar** said that a grandfather's brother's wife is not a shniya at all!? **A:** **Ameimar** will have to say that she is assur to him as being the chalutza of his grandfather, and he will have to hold that we are goizer shniyos by a chalutza as well.
  - **Q:** The Braisa says that she is assur to his daughter's son, which would only be a shniya!? **A:** She is assur to him as his maternal grandfather's brother's wife (the wife of the dead brother).
    - **Q:** A maternal grandfather's brother's wife is not assur as a shniya at all!? **A:** It must be that she is assur to him in her status as a chalutza, and we see that they were goizer shiyos for a chalutza as well. **SHEMA MINAH.**

MUTAR ADAM...

- **R' Tuvi bar Kisna in the name of Shmuel** said, if one marries the tzara of his chalutza, the child they have will be a mamzer. This is because she remains with her original issur of eishes ach (and is not considered as if she too got chaltza, in which case he would only be assur to her with a lav).
  - **R' Yosef** said, we see this from our Mishna as well. The Mishna says that he is mutar to the relatives of the tzara. Now, if the tzara is considered to have gotten chalitza as well, he would not be mutar to her relatives!
  - **Q:** Maybe we should say this refutes **R' Yochanan**, who says that the tzara is like the chalutza, and remains assur to the yavam only with a lav!? **A:** **R' Yochanan** will answer, the Halacha that one is assur to the relatives of his chalutza is only D'Rabanan. The **Rabanan** decided to apply the issur only to the actual chalutza, and not to the tzara.

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- **Q:** Why is it that he is mutar to marry the relatives of the tzara of his chalutza, but he may not marry the tzara of the relatives of his chalutza? **A:** The relatives of the chalutza often accompany her to Beis Din for the chalitza. Therefore, we are concerned that people will get confused and think that the relative is the actual chalutza, and if we allow the relative's tzara to marry him, people may think that the tzara of the chalutza is mutar. Therefore, we do not allow that marriage.

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### MISHNA

- If the brother of one who gave chalitza married the sister of the chalutza, and now this brother died without children, the live brother may only give chalitza, and may not do yibum. Similarly, if one divorces his wife, and his brother married her sister and then died without children, she would be totally free from yibum or chalitza.
- If a shomeres yavam is waiting for yibum or chalitza to be done, and one of the brothers gave kiddushin to her sister, they said in the name of **R' Yehuda ben Beseira**, that we tell him to hold off on the nisuin until another brother does yibum or chalitza, and then he may proceed. If the yevama dies while waiting, he may likewise proceed with his nisuin. However, if the other brother dies, and he is the only remaining yavam, we make him divorce his wife, and then give chalitza to the yevama.

### GEMARA

- **Q:** Why does the Mishna say "similarly" when it is introducing the second case? This case has a different Halacha than the first case and is therefore not similar!? **A:** The word in the Mishna should be changed to "however".
- **Reish Lakish** said, it is here that **Rebbi** said, that the sister of a chalutza is only assur D'Rabanan, whereas the sister of a divorcee is assur D'Orasia.

### SHOMERES YAVAM SHEKIDEISH...

- **Shmuel** says that the Halacha follows **R' Yehuda ben Beseira**.
- **Q:** If his wife died while the yevama is still waiting, may he now do yibum to the yevama? **A: Rav and R' Chanina** said that he is mutar to the yevama, and **Shmuel and R' Assi** said that he is assur to the yevama.
  - **Rava** explains, **Rav** holds, this is a case of a yevama who was mutar, then became assur, then became mutar again, and the Halacha is that she reverts to her original mutar status.
    - **Q: R' Hamnuna** asked, a Braisa says, that when a yavam did maamer to a yevama, and then a second brother who was married to her sister also died, and then the second yevama died as well, he may not complete the yibum that he began with the maamer. According to **Rava**, he should be able to complete the yibum, because she was mutar, then assur, then mutar again, and should therefore be completely mutar!? **A:** At first **Rava** was quiet. Then **Rava** said, I could have answered that the Braisa follows **R' Elazar**, who says that once a yevama becomes assur, she remains assur forever! Then **Rava** said, I couldn't have answered that, because **R' Elazar** only says that when she was assur at the time that she fell to yibum. Then **Rava** found that **R' Elazar** actually holds that way even if she was at first mutar. Therefore, he can answer the Braisa and say that it only follows the view of **R' Elazar**.
    - **Q:** Should we say that **Shmuel and R' Assi** only follow the view of **R' Elazar**? **A:** They may even follow the **Rabanan**. The **Rabanan** only argue and say she is mutar when the period of her being assur happened before she fell to yibum (the brother had divorced her and then remarried her).

### MISHNA

- A yevama may not get chalitza or yibum until 3 months have passed since the death. The same is true for all women – they may not enter into a kiddushin or a nisuin until 3 months have passed from their previous marriage. This is true whether the woman is a besula or a beulah, whether she is a widow or a divorcee, and whether she was an arusah or a nesuah.
  - **R' Yehuda** says, a woman who was a nesuah may enter into a kiddushin during the 3 months, and a woman who was only an arusah may even enter into nisuin, except for a woman who was an arusah in

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Yehuda, because there the chosson and kallah are usually comfortable with each other, and we have to be concerned that maybe they had tashmish in the state of eirusin.

- **R' Yose** says, all women may immediately enter into eirusin, except for a widow, who must wait until after her 30 day period of aveilus.

### GEMARA

- **Q:** We can understand why she can't immediately do yibum, because we must see if she is pregnant, and if she is and has a viable child, the yibum would be an issur of eishes ach. However, why can't she get chalitza during that time? Should we say that this refutes **R' Yochanan** who says that the chalitza done during pregnancy is a good chalitza? **A:** We don't allow the chalitza, because if it turns out that she is pregnant and has a viable child, she would be mutar to a Kohen and we would have to make an announcement to that effect. We don't want to rely on this announcement, because if one was present at the chalitza and not at the announcement, and then sees a Kohen marry her, he would be led to think that a Kohen may marry a chalutza.
  - **Q:** What about a case where the yevama is also a divorcee previously, so she anyway can't marry a Kohen, why wouldn't we allow her to get chalitza immediately? **A:** We delay the chalitza, because as soon as the chalitza takes place, she is no longer entitled to support.
    - **Q:** She only had support if she was a nesuah. Why wouldn't we allow a yevama from a kiddushin to get an immediate chalitza? **A:** The reason is based on **R' Yose**, that chalitza may only be done when yibum may be done. Since yibum may not be done during the first 3 months, chalitza may also not be done during that time.
    - **Q:** **R' Chinina** asked, a Braisa says that sefeikos get chalitza but not yibum. Now, this can't be referring to a safek kiddushin, because there would be no reason to prohibit yibum in that case. The case must be where he was mekadesh one of 2 sisters and does not remember which one. Now, in that case yibum would be assur, and still we see that chalitza must be done!? **A:** In that case, if Eliyahu would come and clear the safek, we would be able to move ahead with a yibum. In our case, even if Eliyahu would say that the woman is not pregnant, we would still have to wait 3 months, as we see that a minor must wait 3 months before yibum as well, even though she cannot physically become pregnant! We see that yibum may not be done during the first 3 months.
- A Braisa says, a yevama is supported from her husband's estate for 3 months. After that time, she gets no support from the estate or from the yavam. However, if the yavam ran away from Beis Din without acting, she continues to get support from the yavam.
  - **Q:** If the yavam is a minor, she does not get support from him. Would she continue to get support from the estate? **A:** **R' Acha** and **Ravina** argue – one says she does get support and one says that she does not.
    - The Gemara paskens that she does not get further support. It is as if she has been penalized by Heaven.
- A Braisa says, if a yevama gets chalitza within 3 months, she still must wait the 3 months before remarrying. One who waits 3 months before getting chalitza may get married right after getting the chalitza.
  - We see from here, that the 3 month waiting period begins with the death of the husband, not with the receipt of the chalitza.
    - **Q:** Why is this different than by a get, in which case **Rav** says that the 3 month period begins at receipt of the get, not at the time of its writing? **A:** In the case of the yevama we darshan a kal v'chomer – if after 3 months of the death we allow her to a man who was assur to her with kares (the yavam), surely at that same time we would allow her to one who was only assur to her with a lav (a man besides the yavam).

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- **Q:** We can understand why it is important for the yevama to wait before getting married again (there is a concern for possible mamzeirus), but why is it essential for the other women to wait? **A:** The pasuk says that Hashem makes a bris for us and “ulezaracha acharecha”, which teaches that it is of utmost importance to be of known lineage. If a woman were to wait less than 3 months before remarrying, this would be impossible.
  - **Q: Rava** asked, a Braisa says that a ger and a geyoris who were married before their conversions, must remain apart for 3 months after their conversion. Now, there is no concern with regard to lineage, so why must they do this? **A:** They must do so, to differentiate between a child conceived before and a child born after the conversion.
  - **Rava** said the reason it is important for every woman to wait 3 months to ensure the true father is to prevent the child from possibly marrying an ervah, or causing confusion in a yibum situation.
    - **R’ Chananya** asked, a Braisa says that we make her wait to remarry for the sake of the child. Based on the above, it is for the sake that an ervah should not be transgressed!? **A:** It was for the sake that the child not transgress an ervah.
- **Q:** Why don’t we just make the woman wait for one month. If she has a baby 7 months later, we would know it is for sure from the second husband (because it is 8 months from the first husband and there is no baby born after 8 months), and if it is born after 8 months, we would know it is a 9 month baby of the first husband!? **A:** A baby born after 8 months may be a 7 month baby of the second husband in a case where she didn’t become pregnant until one month after the marriage.
  - **Q:** We should let her get married after 2 and ½ months. If she has a baby 7 months after the second marriage, it is surely from the second husband. If she has a baby 6.5 months after the marriage, it is surely from the first husband, because a baby born after 6.5 months cannot live!? **A: Mar Zutra** has said that although it may be that a 9 month baby born in less than nine full months cannot live, a 7 month baby born in the 7<sup>th</sup> month can live. Therefore, a baby born at 6.5 months after the second marriage may be from the second husband.
- **Q:** Why don’t we make her wait only a couple of weeks and then marry, and then check her for signs of pregnancy after 3 months since the termination of the first marriage? At that point, if she shows signs, we know it is from the first husband, and if she shows no signs, any pregnancy must be from the second husband!? **A: R’ Safra** said, we don’t like examining a married woman in this way, because it may cause her husband to become disgusted with her.
  - **Q:** Why can’t we examine her by seeing how she walks, which is not an examination that will cause her husband to become disgusted with her!? **A: Rami bar Chama** said, a woman can and will influence the results of that test so that a child from the first marriage will be able to inherit from her second husband.
- **Q:** If a woman is certainly pregnant, we should allow her to remarry immediately (since there is no question as to lineage)!? Why does a Braisa say that a man may not marry a woman who is pregnant or nursing? **A:** We are concerned that if he will marry a pregnant woman, they may conceive another child during the pregnancy, thereby killing the first child.
  - **Q:** Why is that not a concern for every pregnant woman, who continues to live with her husband? **A:** Either she uses contraception, or we say that Hashem will have mercy and not allow that to happen.
    - **Q:** Why don’t we say these say 2 things when she is marrying a new husband during the pregnancy? **A:** The reason she can’t remarry is that we are concerned that the husband will crush the baby during tashmish when he is on top of the woman.
      - **Q:** We should have the same concern when she is with her same husband!? **A:** That would be his own child and he will make sure not to crush the child.
      - **Q:** Even a new husband will surely be careful not to crush a child!? **A:** The average pregnant woman will begin nursing the baby. We are concerned that she may become pregnant when nursing, thus ending her milk supply and thereby starving the baby.
      - **Q:** We should have that same concern when she is with her same husband!? **A:** For his own child he will spend the money to provide food if the mother’s milk is no longer available.

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- **Q:** Let her also support her child if she marries a new husband!? **A:** The husband will not give her money.
- **Q:** Let her demand money from the first husband's estate!? **A:** **Abaye** said, a woman is embarrassed to go to Beis Din, and will therefore not go, which will result in the baby dying.

### ACHAS BESULOS V'ACHAS BE'ULOS

- **Q:** Besulos are presumably the same thing as arusos, and be'ulos are the same thing as nesu'os, so why are they listed separately in the Mishna? **A:** **R' Yehuda** said, the Mishna means to say that a besula who is widowed or divorced from the eirusin, or a be'ula who is widowed or divorced from the nesu'in.....
- **R' Assi** once told **R' Elazar** that **R' Yochanan** said, that the Halacha follows **R' Yose** in our Mishna (that a nesuah may immediately enter eirusin, and an arusah may immediately enter nesuin (since there is no concern for her being pregnant).
  - **Q:** This would suggest that **R' Yose** is arguing on a singular view (because that is the only way we would pasken like him)? **A:** This is true. We find a Braisa that says, that when it is not possible for the woman to have become pregnant, **R' Meir** says we still make her wait. We see that this view is the singular view of **R' Meir**.
  - **R' Chiya bar Abba** said, **R' Yochanan** ultimately retracted his psak. **R' Yosef** said, if he retracted it, it must have been based on a Braisa taught in Yavneh, that says that the **Chachomim** say that all women must wait 3 months.
  - **R' Yirmiya** told **R' Zrika** to ask **R' Avahu**, how is it possible to say that **R' Yochanan** paskened like **R' Yose**, when an anonymous Mishna argues on **R' Yose**, and we find that **R' Yochanan** always follows the view of an anonymous Mishna!? **R' Avahu** answered him, this anonymous Mishna is followed by another Mishna in which the matter is the subject of machlokes, and **R' Yochanan** says, when an anonymous Mishna is followed by another Mishna which brings the matter as a machlokes, we do not pasken like the anonymous Mishna.
- **R' Avahu** was walking with **R' Nachmum**, his attendant, and **R' Nachum** asked him, if we have a machlokes in one Mishna and an anonymous ruling on the subject in a later Mishna, how do we pasken? He answered that we pasken like the anonymous Mishna. He then asked, what if the anonymous Mishna is first and it is then followed by a Mishna which has a machlokes on the matter, how do we pasken? He answered that the Halacha would not follow the anonymous Mishna. He then asked, what if there is an anonymous Mishna and a Braisa that has a machlokes on the matter, how would we pasken? He answered that the Halacha would follow the anonymous Mishna. He then asked, what if there is a machlokes in a Mishna and an anonymous Braisa on the matter, how would we pasken? He answered, if **Rebbi** didn't teach the matter anonymously, how did **R' Chiya** teach so in a Brasia!? Therefore, we would not follow the anonymous Braisa.

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- **Q:** **R' Nachman** asked **R' Avahu**, you have just said that when there is an anonymous Mishna, and then there is a Braisa that brings the topic as being subject to a machlokes, we are to pasken like the anonymous Mishna. However, we find just that situation regarding a Mishna that discusses the tumah status of a comb used for flax, and it is specifically said that we do *not* pasken like that Mishna!? **A:** **R' Avahu** said, that Mishna is an exception to the rule, because **R' Yochanan** and **Reish Lakish** both say that that Mishna is actually not an anonymous Mishna, and is actually only the view of **R' Shimon**.
- **R' Chiya bar Avin** said, women may enter eirusin within the 3 month period after termination of their previous marriage, and I have seen this to be followed in practice. **R' Elazar** taught from **R' Chanina Hagadol**, she must only wait most of the first month, the entire second month, and most of the 3<sup>rd</sup> month. **Ameimar** would allow her to accept eirusin on the 90<sup>th</sup> day after the termination of her marriage.
  - **Q:** **R' Ashi** asked **Ameimar**, we have learned that **Rav and Shmuel** both say that she must wait 3 months, not including the day of the death and the day of the eirusin!? **A:** **Ameimar** said, the teaching of **Rav and**

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**Shmuel** was said regarding the 24 months of waiting time needed for a nursing woman (it must be 24 months besides the day of the birth and the day of the eirusin).

- **Q:** We find that **Rava** made a woman push off her eirusin meal beyond the 90<sup>th</sup> day, causing all the food to be lost!? **A:** That story took place regarding a nisuin meal, not an eirusin meal.
- The Gemara paskens that a nursing woman must wait 24 months, not including the day of birth and the day of the eirusin, and a regular woman must wait 3 months, not including the day of death and the day of the eirusin.

CHUTZ MIN HA'ALMANAH...

- **Q: R' Chisda** asked, we should allow her to enter eirusin based on kal v'chomer! If during the week of Tisha B'Av, when it is assur to launder, a woman may enter into eirusin (as stated in a Braisa), then surely during the shloshim period, when she may launder, she may certainly enter into eirusin!? **A:** The Braisa means to permit eirusin only during the week before the week of Tisha B'Av, when it is likewise mutar to launder. Therefore, there is no kal v'chomer.
  - **Q: Rava** asks, there should still be a kal v'chomer. If during the week before the week of Tisha B'Av, when it is assur to do business, it is still mutar to enter into eirusin, then certainly during her shloshim period, when it is mutar to do business, it should surely be mutar for her to enter into eirusin!? **A:** In our Mishna **R' Yose** was actually not saying that all women may enter into eirusin immediately, except for a widow. He never said it was assur for her to enter in eirusin. He was actually discussing the women entering into nisuin.
    - **Q: Is R' Yose** not concerned for determining the true father of the child? **A:** He is not concerned for that. **A2:** He is concerned for that, and what he meant to say was that a woman who was divorced from eirusin may enter into an immediate nisuin.
      - **Q:** That would be the exact shita of **R' Yehuda**!? **A:** The difference between them would be whether one who was a nesuah may immediately enter into eirusin – **R' Yehuda** says she may and **R' Yose** says she may not.
      - **Q:** A Braisa suggests that **R' Yose** allows a woman who was a nesuah, other than a widow, to enter into an immediate eirusin!? **A: Rava** said, we should amend the Braisa to read that he does not allow a nesuah to enter into an eirusin for 3 months.
      - **Q:** The Braisa, as amended, said that a widow from the eirusin may not enter into a nisuin until after her 30 day aveilus period. This is difficult to say, because **R' Chiya bar Ami** taught, that a widow from eirusin will not be subject to aveilus for her husband!? If so, the Braisa cannot be amended as suggested. If so, we are back to the original question, that the kal v'chomer should allow a widow to enter into an immediate eirusin!? **A:** We find that whether a woman may enter into eirusin during the week before the week of Tisha B'Av, is actually a machlokes among Tanna'im. **R' Yose** will hold like those who say that it is assur, and therefore, he will hold that there is no kal v'chomer.
      - **Q: R' Ashi** asked, maybe the Braisa that seems to say that eirusin is assur during that week actually means to say that making a seudah for an eirusin is assur during that week, but the eirusin itself would be mutar!? **A: R' Ashi** therefore says, that although eirusin is permitted in the aveilus period for the Beis Hamikdash, that is because it is an "old aveilus" and is only a communal loss, not a personal one. However, a new aveilus, for the loss of a husband (which is a personal loss), would prohibit eirusin from taking place during that time.

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MISHNA

- If 4 brothers died without children, and now all their 4 wives fall to yibum, if the oldest surviving brother wants to do yibum to them all, he may.

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- If a person is married to 2 women and he dies without children, doing yibum or chalitzta to either one of them, makes the other wife patur from needing yibum or chalitzta.
  - If one of these 2 women was fit to marry a Kohen and the other was not (she was previously a divorcee), if he wants to do chalitzta, he should give chalitzta to the woman who is already passul to a Kohen. If he wants to do yibum, he may do yibum to either woman.

### GEMARA

- The Mishna means to say that there were more than 4 brothers, but only 4 of them died.

### HARISHUS BEYADO

- **Q:** We find in a Braisa that Beis Din persuades one not to do yibum when it is not appropriate for him, such as when he is much older or younger than her. If so, they would surely persuade him against marrying 4 wives at once as well!? **A:** The Mishna is discussing a person with the means to support all 4 of them.
  - **Q:** If so, the Mishna should not limit its ruling to a case of 4 women? **A:** The Mishna is teaching that one should not take more than 4, because that is the maximum number that he can have, so that by being with one of them each week, he can accomplish being with each of them at least once a month.

### MI SHEHAYA NASUY...

- **Q:** Why can't he do yibum to both of the women? **A: R' Chiya bar Abba in the name of R' Yochanan** said, the pasuk says "asher lo yivneh es *beis* achiv". This teaches that he may only build one house, and not two.
  - **Q:** Why can't he give chalitzta to both? **A: Mar Zutra bar Tuvia** said, the pasuk says "*beis* chalutz hana'al" – which teaches that only one house may get chalitzta.
  - **Q:** Why can't he give yibum to one and chalitzta to the other? **A:** We learn from the pasuk that only a woman who is fit for yibum is fit for chalitzta, and this woman is not fit for yibum (as explained). Also, we don't want people to say that the house of his brother was partially built (yibum) and partially done with chalitzta.
    - **Q:** Why would we care if people say that? **A:** If yibum was done first and then followed by chalitzta, there would truly be no harm. However, we are concerned that first chalitzta would be done, and then yibum, which would be assur based on the pasuk of "lo yivneh".
  - **Q:** Maybe the mitzvah of yibum only applies when there is "one house" (one wife), but when there are 2 wives the mitzvah of yibum does not even apply at all? **A:** If that was true, the Torah would not have to assur the case of tzaras ervah.
    - **Q:** The reason we would think the tzara is not assur is because we would say that the ervah is as if she is not included in the mitzvah of yibum, and the tzara is therefore mutar!? **A:** The pasuk says the word "yevimto" twice, to teach that the mitzvah applies even where there are 2 wives.

### HUYSA ACHAS KESHEIRA

- **R' Yosef** said, this is where **Rebbi** said, a person should not spill out his water if other people have a need for it (he shouldn't give chalitzta to the one who is valid to a Kohen, and therefore make her now assur to a Kohen).

### MISHNA

- One who remarries his divorcee after she had married someone else, and one who married a woman he gave chalitzta to, and one who married the relative of his chalutzta, in all these cases we force them to divorce and **R' Akiva** says, any children they had are mamzeirem. The **Chachomim** say the children are not mamzeirem (these issurim are only from a lav, and an issur of a lav cannot create a mamzer).
  - The **Chachomim** would agree that one who married the relative of his divorcee, produces children that are mamzeirem.

### GEMARA

- **Q:** We have learned that **Reish Lakish** said that **Rebbi** teaches that the relatives of a chalutzta are only assur D'Rabanan. If so, how could **R' Akiva** say that the child is a mamzer!? **A:** Change the case of **R' Akiva** in the Mishna to where he married the relative of his divorcee. This makes sense as well, because the Mishna says that

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the **Chachomim** agree in the case of the relatives of his divorcee. If “they agree”, that must mean that the Mishna had previously discussed this case.

- **Q:** Maybe “they agree” comes to teach that the **Chachomim** agree that a marriage that carries the kares penalty produces a mamzer? **A:** A Mishna later clearly says that we pasken like **Shimon Hateimani**, who says that a mamzer is only produced from a relationship that carries the kares penalty.
  - **Q:** Maybe the Mishna wants to put **Shimon Hateimani’s** shita as an anonymous shita here? **A:** Then it would say it as “relationships that carry the kares penalty”, and not give the specific case of the relatives of his divorcee.
  - **Q:** Maybe the original version of **R’ Akiva** is correct, and the reason the Mishna brings the case of the relatives of the divorcee is because it is somewhat similar to the cases mentioned by **R’ Akiva**!? **A:** It must be that **R’ Akiva** holds that the relatives of a chalutza are assur D’Oraisa. **R’ Chiya bar Abba in the name of R’ Yochanan** explains, this view is based on the pasuk of “beis chalutz hana’al” – the pasuk refers to the chalutza as his house (i.e. his wife).
- **R’ Yosef in the name of R’ Shimon bar Rebbi** said, all agree that the child of the machzir gerushaso (when he remarries his divorcee after her marriage to another man) is considered tainted for purposes of a Kohen.
  - This comes to teach that even **Shimon Hateimani** would hold this way. Although the child would not be a mamzer, the child is passul to a Kohen based on a kal v’chomer from the case of a widow to a Kohen Gadol. That issur of a widow is only for a Kohen Gadol, and yet it produces children who are passul for a Kohen, so certainly the case of machzir gerushaso, which applies to all people, would certainly produce a child who is assur to a Kohen.
    - **Q:** We can ask that the cases are different, because the widow herself becomes assur when she marries a Kohen Gadol, whereas the machzir gerushaso does not become assur from this marriage (she was already assur from the earlier divorce)!? **Q2:** Also, the pasuk of “hee to’eiva” teaches that only she is assur, but the children of the machzir gerushaso do not become assur!? **Q3:** Also, a Braisa says that the **Chachomim** say that the machzir gerushaso is kosher and the children from this marriage are kosher. Presumably this means that the children are kosher for a Kohen!? **A:** The **Chachomim** mean that the children are not mamzeirim.
      - **Q:** Regarding the machzir gerushaso herself, it clearly can’t mean that she is kosher to marry a Jew, because there is no reason that she wouldn’t be, rather it must mean that she is kosher in regard to kehuna (i.e. for terumah). The same must be regarding the child, that it means he is kosher for a Kohen!? **A:** The word kosher when used in regard to her means that she is kosher to kehunah (i.e. terumah), but when used in regard to the child, it means that he is kosher to marry a Jew and is not a mamzer.
      - **A:** Regarding the second question, we darshen the pasuk of “hee to’eiva” to teach that she is passul, but her tzaros are not. However, the children would be passul.
      - **A:** We are left with the first question on the kal v’chomer. We must say that the teaching was as follows: **R’ Yosef in the name of R’ Shimon the son of Rebbi** says, all agree that a child from a relationship that carries the kares penalty is tainted. The “all agree” comes to include **R’ Yehoshua**, who says that a mamzer is only produced from a relationship that carries a death penalty, and he would agree that the child, although not a mamzer, is considered to be tainted. We learn this from a kal v’chomer of a widow who marries a Kohen Gadol. Although we can say that that case is different because the widow herself becomes passul to a Kohen through that, we can say that the woman of a relationship that carries the kares penalty also becomes assur to a Kohen as a zonah.

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- mamzer.
  - **Q:** Who does the term “all agree” come to include? **A:** It comes to include **Shimon Hateimani**. Although he normally says that a child of a relationship assur via a lav is not a mamzer, that is only by a lav which

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kiddushin will still take effect. However, since a goy and slave cannot effectuate a kiddushin, the relationship is treated like a kares penalty relationship, and a mamzer is produced.

- **Q:** A Braisa says that **R' Shimon ben Yehuda** says that a mamzer only comes from a relationship with a kares penalty, and he specifically says that a mamzer would not be produced from a goy or slave who lived with a Jewess. He obviously holds like **Shimon Hateimani**, and we see that he must hold that in that case a mamzer will not be produced!? **A:** **R' Yosef** said, the term “all agree” comes to include **Rebbi**. Although he normally holds that a mamzer is not produced via a lav, he will agree that it is produced from a goy or slave. In fact we find that he holds this way.
- When a Jewish girl who was impregnated by her non-Jewish captors asked **R' Ami** regarding the status of her baby, he said that **R' Yochanan**, **R' Elazar** and **R' Chanina** all say that the child is a mamzer. **R' Yosef** said to him, it doesn't take much to list names. In fact, we find that **Rav**, **Shmuel**, **R' Yehoshua ben Levi**, and **Bar Kappara** all say that the child is not a mamzer! Rather, **R' Yosef** said, the child is considered a mamzer because we find that **R' Dimi in the name of R' Yitzchak bar Avudimi** says, that **Rebbi** considers this child to be a mamzer.
- **R' Yehoshua ben Levi** says that such a child is “damaged”.
  - **Q:** What does damaged mean? It can't mean that he is a mamzer, because **R' Yehoshua ben Levi** says that a child born via a lav will not be a mamzer!? **A:** He must mean that the child will be passul for Kehunah. This would be learned from a kal v'chomer from a widow to a Kohen Gadol, whose child becomes passul to Kehunah even though the issur only applies to a Kohen Gadol, so surely the child of a goy with a Jewess will be passul to Kehunah, since that is an issur that applies to all.
    - **Q:** The widow to a Kohen Gadol is different because she herself becomes passul to Kehunah by living with the Kohen Gadol!? **A:** A woman who was with a goy or a slave also becomes passul to Kehuna herself.
  - **Q:** **Abaye** asked, why do you rely on **R' Dimi** that **Rebbi** said the child is a mamzer? We find that **Ravin** said that **Rebbi** said such a child is not a mamzer!
  - **Rav** said that the child is not a mamzer as well. **Rav** actually paskened that way when a man born of such a union came to ask his status. Although he paskened for the man that way, he still refused to give his daughter to this man in marriage.
    - We find that **R' Masna** and **R' Yehuda** held this way as well.
  - The people of Bei Michsi asked **Rabbah**, what is the status of a child born from a half-freed slave and a Jewess? He said, even a full slave would not produce a mamzer, so surely the child of the half slave is not a mamzer.
    - **Q:** **R' Yosef** asked, we find that **R' Yehuda** (who says that the child of a slave and a Jewess is not a mamzer) says that the child of a half slave and a Jewess is a mamzer!? **A:** **R' Yehuda** was talking about where this half slave gave kiddushin to the woman first. It turns out that the half slave in him has lived with a married woman. That is why the child is a mamzer.
      - **Q:** It was said in the name of **R' Yaakov** that the shita which holds that the child is a mamzer, holds so whether or not the woman was a married woman, and the shita that holds that the child is not a mamzer also makes no difference whether the woman was married!? **A:** **R' Yehuda** was talking about where the half slave lived with a married woman. Although if he was a full slave the child would not be a mamzer, since he is half freed, that part of him has now lived with a married woman, and the child is therefore a mamzer.
  - **Ravina** said that **R' Gaza** told him that **R' Yosef bar Avin** paskened in practice that when a slave and an unmarried Jewess have a child, the child is not a mamzer, but if the woman is married, the child is a mamzer. **R' Sheishes** said that **R' Gaza** told him that it was **R' Yosef the son of R' Zevida** who paskened, and he paskened that in both cases the child is

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not a mamzer. **R' Acha the son of Rava** told **Ravina** that **Ameimar** paskened in practice that in both cases the child is not a mamzer. The Gemara paskens, that in both cases the child is not a mamzer. **Rava** said that **R' Mari bar Rachel** (who was born from the rape of a goy) was not a mamzer, and even appointed him to a position of authority.

- **R' Chiya bar Ami's** maidservant went to the mikvah to purify from niddah so that she could be with a slave. **R' Yosef** said, I could make a case that the maidservant herself and her daughter could each be mutar to marry a Jew. She herself went to the mikvah, and although she did not have in mind to do so as a conversion, we find that **R' Assi** says that going to the mikvah for niddah suffices for conversion. Her daughter would be mutar to a Jew, because we pasken that a child born of a non-Jewish father and a Jewish mother is not a mamzer.

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- **R' Chama bar Gurya in the name of Rav** says, if one buys a slave from a goy, and before being toivel with intent to become slave, he goes and is toivel with intent for a full conversion, the slave acquires himself as a free man. This is so because the goy never owned the actual slave, he only owned the right to his work. Therefore, that is all the goy sold to the Yid. If the slave decides to convert before becoming the slave of the Yid, he can thereby acquire himself and become a free man.
  - **Q: R' Chisda** asked, we have learned that when Balurya converted, her slaves went to the mikvah before she did (for her conversion), and they thereby became free. This suggests that the only reason they went out free was because she was not yet Jewish when her slaves were toivel, and if they would have done so after she was toivel, their tevila would not have set them free!? **A: Rava** said, what is meant is, that before her conversion, if they go to the mikvah even without any specific intent, they go free. After her conversion, if they go to the mikvah with intent to convert, only then would they go out free.
  - **R' Avya** said, it is only a goy who cannot own the body of another goy or of a Yid. However, a Yid can own the body of a goy.
  - **Shmuel** said, in order to be toivel a goy to become a slave (and not for full conversion), the owner must show his ownership (e.g. by using him for work) during the tevila. We find that **Ravina and R' Acha the son of Rava** put a leash around the neck of a slave as he was being toivel, to show that he is a slave. Also, as he raised his head from the water, they put a bucket of cement on his head and instructed him to carry it somewhere.
- **R' Pappa** said to **Rava**, we see that the people of the house of Pappa bar Abba would pay the tax obligation for people and then enslave those people. Is this enslaving a servitude to the extent that the people would need a "get shichrur" (a bill of emancipation) to go free? **Rava** said, **R' Sheishes** said that all people are considered as enslaved to the king, and the king says that whoever pays the tax of another becomes the master of the one who is paid for. Therefore, it is a true enslavement and a get shichrur would be needed.
- **R' Chiya bar Abba** was in Gavla and saw that Jewish girls were pregnant from men who had gotten a bris but had not yet gone to the mikvah for geirus. He also saw that non-Jews would dilute the wine for the Yidden to drink. He also saw that non-Jews would cook the beans for the Yidden to eat. He didn't say anything to these people. He later told **R' Yochanan** about these matters, and **R' Yochanan** told him to announce that these children are mamzeirem (**R' Yochanan** holds that the geirus is not complete until there is tevila and a bris, and as such the children are from a goy and a Jewess, which he holds are mamzeirem), that this wine is assur as yayin nesech (although the goy may not have touched the wine, we must be goizer and say this is assur because the force of his pouring has moved the wine), and that the beans are assur as bishul akum (we must be goizer since these people are not bnei Torah).
  - **Q:** Is this to say that if they were Bnei Torah the beans would be mutar? **R' Shmuel bar R' Yitzchak in the name of Rav** said, anything that cannot be eaten raw and is cooked by a goy becomes assur as bishul akum!? **A: R' Yochanan** holds like another version of **Rav**, in which he says, if something is not significant enough to be served to kings, it does not become assur if cooked by a goy.

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- A Braisa says, **R' Eliezer** says, if a ger had a bris but did not go to the mikvah, he is a full ger, since we find that the Yidden who left Mitzrayim gave themselves a bris but did not go to the mikvah. **R' Yehoshua** says, if a ger went to the mikvah but did not yet have a bris, he is a full ger, since we find that the women who left Mitzrayim went to a mikvah and did not have a bris. The **Chachomim** say that a geirus is not complete until he has gotten a bris and has gone to the mikvah.
  - **Q:** Why doesn't **R' Eliezer** learn from the women who left Mitzrayim that a tevila alone is enough? The fact that women are not physically capable of having a bris would not prevent **R' Eliezer** from learning from there, because we find that **R' Eliezer** learns out things even from such situations!? **A:** It must be that **R' Eliezer** agrees that a tevila alone is enough for geirus. He only argues whether a bris alone would suffice as well, and learns from the men who left Mitzrayim that a bris alone is enough. **R' Yehoshua** says, the men who left Mitzrayim also went to the mikvah, and there is therefore no proof that a bris alone would suffice.
    - **R' Yehoshua** learns that the men went to the mikvah from the pasuk that says that Moshe Rabbeinu sprinkled the blood of the korbanos and sprinkled it on the people. We have a tradition that sprinkling is always accompanied by a tevila. **R' Yehoshua** says based on logic, that the women went to the mikvah – they had to have done something to become full-fledged Jews. It must be this something was a tevila.
  - **R' Chiya bar Abba in the name of R' Yochanan** said, a geirus is not complete until a bris and tevila have been done.
    - **Q:** This seems obvious since this is the shita of the **Chachomim**, who are the majority opinion!? **A:** We find in another Braisa that the shita is actually the singular view of **R' Yose**. Therefore, **R' Yochanan** is telling us that we pasken like him.
    - **Q:** This Braisa says, that according to **R' Yehuda**, if a person comes and says that he has gotten a bris but has not yet been toivel, we believe him and allow him to go to the mikvah, and “therefore” one may even toivel a ger on Shabbos. Once we know that he says that the bris alone is sufficient, it seems obvious that the tevila may be done on Shabbos, so why does the Braisa say “therefore the tevila may be done on Shabbos”? **A:** We would think that **R' Yehuda** actually holds that only mikvah alone is sufficient, which is why we don't require proof of his getting a bris for geirus. If so, we would say that he would not allow the tevila on Shabbos since that “repairs” the person. The Braisa therefore teaches that **R' Yehuda** says that either one alone suffices.
    - **Q:** The Braisa said that **R' Yose** does not allow the tevila on Shabbos. Since **R' Yose** requires both for the geirus, it is obvious that the tevila cannot be done on Shabbos!? **A:** We would think that **R' Yose** holds that the bris alone is sufficient, but only in this case it is not, because it was not done in front of us. The Braisa therefore teaches that **R' Yose** always says that neither one alone is sufficient.
    - **Rabbah** said, a story once happened by **R' Chiya Beribi**, where a person had a bris but had not gone to the mikvah for geirus and they told the person, wait here until tomorrow and then go to the mikvah. We learn 3 things from here: 1) that a geirus must take place in front of a Beis Din of 3 people; 2) the geirus is not complete until he has gotten a bris and gone to the mikvah; 3) a ger cannot go to the mikvah at night.
      - **R' Chiya bar Abba in the name of R' Yochanan** said, conversion must be done in front of a Beis Din of 3, since the pasuk uses the word “mishpat” in reference to him, and “mishpat” requires 3 people.