

**מתני' שומרת יבם**, בין ליבם אחד בין לשני יבמין, רבי אליעזר אומר: יפר. רבי יהושע אומר: לאחד, אבל לא לשנים. רבי עקיבא אומר: לא לאחד ולא לשנים.

אמר רבי אליעזר: מה אם אשה שקנה הוא לעצמו הרי הוא מיפר נדריה, אשה שהקנו לו מן השמים – אינו דין שיפר נדריה?

אמר לו רבי עקיבא: לא, אם אמרת באשה שקנה הוא לעצמו – שאין לאחרים בה רשות, תאמר באשה שהקנו לו מן השמים, שיש לאחרים בה רשות!?

אמר לו רבי יהושע: עקיבא, דבריך בשני יבמין, מה אתה משיב על יבם אחד? אמר לו: אין היבמה גמורה ליבם כשם שהארוסה גמורה לאישה.

**גמ' בשלמא רבי עקיבא סבר:** אין זיקה, ורבי יהושע סבר: יש זיקה. אלא רבי אליעזר מאי טעמיה? אי יש זיקה – אין ברידה!

**MISHNA** With regard to a widow waiting for her *yavam*<sup>HN</sup> to perform levirate marriage, whether she is waiting for one *yavam*, if her late husband had only one brother, or whether she is waiting for two or more *yevamin*, if he had several brothers, **Rabbi Eliezer says: A *yavam* can nullify her vows. Rabbi Yehoshua says: If she is waiting for one *yavam*, he can nullify her vows, but not if she is waiting for two.<sup>N</sup> Rabbi Akiva says: A *yavam* cannot nullify her vows, regardless of whether she is waiting for one *yavam* or for two or more.**

The mishna then elaborates: **Rabbi Eliezer said: Just as with regard to a woman he acquired for himself through betrothal, he nullifies her vows, so too with regard to a woman acquired for him from Heaven, i.e., the *yevama*, isn't it logical that he should be able to nullify her vows?**

**Rabbi Akiva said to him: No, if you say that a husband can nullify the vows of a woman he acquired for himself, over whom others have no authority, shall you also say that this is the case with regard to a woman acquired for him from Heaven, over whom others have authority? If there are two *yevamin*, each *yavam* has equal authority with regard to her vows.**

**Rabbi Yehoshua said to him: Akiva, your statement applies in a situation with two *yevamin*, but how do you reply to Rabbi Eliezer in the case of one *yavam*? Rabbi Akiva said to him: A *yevama* is not the full-fledged wife of the *yavam* in the way that a betrothed woman is her husband's full-fledged wife, and the *yavam* is not empowered to nullify vows at all.**

**GEMARA** The latter two opinions in the mishna **make sense: Rabbi Akiva holds that the levirate bond<sup>B</sup> is not substantial.** Since the obligation of levirate marriage does not create a marriage-like bond between the *yavam* and the *yevama*, a *yavam* cannot nullify the vows of the *yevama*. **And Rabbi Yehoshua holds that the levirate bond is substantial,<sup>HN</sup>** so that if there is only one *yavam*, the *yevama* is considered his wife, allowing him to nullify her vows. **However, with regard to Rabbi Eliezer, what is his reason? Even if he holds that the levirate bond is substantial, there is, nevertheless, no retroactive designation.<sup>N</sup>** Since it has not yet been established which of them will be her husband, how can either of them nullify her vows?

**NOTES**

**A widow waiting for her *yavam* – שומרת יבם:** The Meiri explains that the mishna is referring exclusively to a woman who was widowed after having been fully married. If she was a betrothed young woman when her husband died, exclusive authority to nullify her vows reverts to her father. If she was a betrothed adult at her husband's death, the *yavam* certainly cannot nullify her vows, as even a betrothed husband cannot nullify the vows of an adult woman until they are fully married.

**If she is waiting for one *yavam* he can nullify her vows, but not if she is waiting for two – לא אחד אבל לא לשנים:** The early commentaries explain that when there is more than one brother, none of them can nullify the widow's vows, since she is not waiting for a specific one of them, and the Torah states: "Her husband may nullify it" (Numbers 30:14), indicating that the man who nullifies her vow must specifically be her husband and not a man about whose status there is any doubt. Some early commentaries contend that, according to Rabbi Eliezer, the brothers can nullify her vows together (Meiri; *Tosafot Had MiKammaei*).

**The levirate bond is substantial – יש זיקה:** The dispute as to whether the levirate bond is substantial relates to the scope of the attachment of the *yevama* to the *yavam*. It is discussed at

length in tractate *Yevamot* (17b–19a). If one says that the bond is substantial, then the *yevama* is regarded as betrothed to the *yavam* in that it is prohibited for him to marry her relatives. The Gemara there discusses the possibility, at least according to one *tanna*, that the bond between a *yavam* and a *yevama* is such that they are regarded as fully married. Some *amora'im* appear to hold that the levirate bond is substantial by Torah law, others hold it is by rabbinic law, and still others hold that it is not substantial at all.

**אין ברידה – אין ברידה, nevertheless, no retroactive designation:** The validity of retroactive designation is the subject of a dispute between both *tanna'im* and *amora'im*. The question is whether an item that was not explicitly designated initially for a certain purpose may retroactively be considered as if it were designated for that purpose from the outset. The Rashba is of the opinion that this case uses the notion of retroactive designation in a different manner than elsewhere in the Talmud, as whichever brother ultimately performs levirate marriage is not a matter that is determined retroactively. Rather, all the brothers are candidates for levirate marriage until one of them consummates it, after which the woman is married to that brother.

**HALAKHA**

**שומרת יבם וכו' –** A widow waiting for her *yavam*, etc. – A *yavam*, even if he has no other brothers, cannot nullify the vows of his *yevama*, even if he performed levirate betrothal with her. Since ben Azzai praises the opinion of Rabbi Akiva (74b), the *halakha* is in accordance with his opinion (Rambam *Sefer Hafl'a'a*, *Hilkhot Nedarim* 11:23; *Shulhan Arukh*, *Yoreh De'a* 234:7).

**The levirate bond is substantial – יש זיקה:** The *halakha* is that the levirate bond is substantial, and it is prohibited for a *yavam* to marry relatives of his *yevama*, regardless of whether there is more than one *yavam*. Once *halitza* or levirate marriage has taken place, the bond between the other *yevamin* and the *yevama* is dissolved. The *Tur* adds that even in the case of an uncertain levirate bond, a *yavam* is forbidden to her relatives until after *halitza*. The Rema notes that in the places that have accepted Rabbeinu Gershom's ban against marrying two wives, some authorities rule that it is prohibited for a *yavam* to marry any woman until after *halitza*, for beforehand he is viewed as having a type of marriage bond with the *yevama* (Rambam *Sefer Nashim*, *Hilkhot Yibbum* 1:14; *Shulhan Arukh*, *Even HaEzer* 159:5).

**BACKGROUND**

**Levirate bond – זיקה:** This refers to the relationship between a widow and her deceased husband's brothers, her *yevamin*, from the time of her husband's death until one of the brothers performs levirate marriage or *halitza* with her. The precise nature of the relationship between the *yevama* and her *yevamin* during this period is the subject of much talmudic debate. In certain respects, they are considered to be betrothed already from the time of the husband's death. For example, a *yavam* may not marry a close relative of his *yevama*. The bond is either transformed into marriage by levirate marriage or dissolved by *halitza*.

אמר רבי אמי: כגון שעשה בה מאמר. ורבי אליעזר סבר לה כבית שמאי דאמרי: מאמר קונה קנין גמור.

ורבי יהושע אומר לך: הני מילי – בחד יבם, אבל בשני יבמין – לא. מי איכא מידי דכי אתי אחוהי אסר עליה בביאה או בגיטא, ומפר? ורבי עקיבא סבר: אין זיקה.

ולרבי (אליעזר) [אלעזר] דאמר: מאמר לבית שמאי אין קונה אלא לדחות בצרה, מאי איכא למימר?

הכא במאי עסקינן – כגון שעמד בדין ואיתחייב לה מזונות, וכדרב פנחס משמיה דרבא, דאמר: כל הנודרת – על דעת בעלה היא נודרת.

Rav Ami said: It is a case where one *yavam* has already performed levirate betrothal<sup>N</sup> with her. According to Beit Hillel, levirate betrothal does not have the full force of a regular betrothal, but Rabbi Eliezer holds like Beit Shammai, who say: Levirate betrothal effects a full-fledged acquisition just like a regular betrothal.

But Rabbi Yehoshua would say to you, Rabbi Eliezer, in response: That statement, that levirate betrothal effects a full-fledged acquisition, applies only to a case with one *yavam*, but with two *yevamin* it is not so. The Gemara explains why it cannot be a full-fledged acquisition where there is more than one *yavam*: Is there anything<sup>N</sup> like this sort of betrothal that when his brother comes, he can render the betrothed woman forbidden to the one who performed levirate betrothal by engaging in sexual intercourse with the *yevama*, thereby performing levirate marriage, or by giving her a bill of divorce, thereby disqualifying her from levirate marriage, and nevertheless the betrothed can still nullify her vows? Since this betrothal can in essence be nullified, it cannot be viewed as betrothal with regard to nullification of vows. Rabbi Ami completes his analysis: And Rabbi Akiva holds that the levirate bond is not substantial at all, and there is no marital bond between a *yevama* and her *yavam* until the levirate marriage is consummated.

The Gemara challenges Rabbi Ami's interpretation of the dispute: And according to the *amora* Rabbi Elazar, who said that levirate betrothal, according to Beit Shammai, does not effect a full-fledged acquisition except in that it removes a rival wife<sup>N</sup> from being considered substantially bound to the *yavam* while she is a *yevama*, what can be said? Only the relatives of the betrothed *yevama* are then forbidden to the *yavam*.

The Gemara answers: Here we are dealing with a case where the *yavam* stood in court in judgment<sup>N</sup> after the woman demanded that he marry her and he was obligated by the court to provide her sustenance.<sup>N</sup> And this is in accordance with that which Rav Pinehas stated in the name of Rava, who said: Any woman who vows, that which she vows is contingent upon her husband's consent. Since under these circumstances the *yavam* must provide for the *yevama* he betrothed, he is authorized to nullify her vows.

#### NOTES

**Levirate betrothal – מאמר:** By Torah law, levirate marriage is effected solely by sexual intercourse. However, due to considerations of modesty, among other reasons, the Sages instituted levirate betrothal for the *yavam* and *yevama*, which means that the *yavam* betroths her in the same ways that any woman is betrothed, by the transfer of money or a document, and only subsequently do they engage in sexual intercourse.

**Is there anything, etc. – מי איכא מידי וכו' –** Whenever there are at least two *yevamin*, even if one of them performed levirate betrothal with the *yevama*, another can thwart his brother's intention to consummate the levirate marriage with her by performing *halitza* with her, performing levirate betrothal with her, giving her a bill of divorce, or engaging in sexual intercourse with her. In nearly all cases where a *yevama* has a relationship with more than one brother in this way, the levirate marriage may not be consummated and she must perform *halitza*.

**Removes a rival wife – לדחות בצרה:** According to the Commentary on *Nedarim*, Beit Shammai's opinion according to Rabbi Elazar is that, in a case where the deceased husband had more than one wife, when levirate betrothal is performed by a *yavam* with one *yevama*, it releases the other wife of the deceased from the levirate bond entirely, and she is free to remarry.

Most commentaries explain, in accordance with the Gemara in *Yevamot* (29a), that the rival wife is removed in that she no longer has the type of connection with the *yavam* that would prevent him from marrying her sister. However, in order to be free to remarry, the rival wife must nevertheless wait until the *yavam* either consummates the levirate marriage or performs *halitza* (Rosh; Ran).

**Where the *yavam* stood in court in judgment – שעמד בדין:** Some interpret this as referring to a situation in which levirate betrothal occurred but the brother who performed it did not marry the *yevama*, so she took him to court to force him to do so (Commentary on *Nedarim*; *Tosafot*). The Rosh, however, explains that this can also refer to a case in which no levirate betrothal occurred, but one of the *yevamin* left the country, and therefore the *yevama* sued the other one in court out of concern that he might also flee, leaving her with neither levirate marriage nor *halitza*.

**And was obligated to provide her sustenance – ואיתחייב לה – מזונות:** In other words, once the *yavam* has become obligated to provide for her, he can nullify her vows on his own, without her father, as Rabbi Eliezer holds that the obligation of sustenance is considered like marriage in this regard.

תנן, אמר רבי אליעזר: ומה אם אשה שקנה לעצמו הרי הוא מיפר נדריה, אשה שהקנו לו מן השמים – אינו דין שמיפר נדריה? ואי בשעשה בה מאמר – קנה לעצמו הוא! שקנה לעצמו על ידי שמים.

תפשוט דבעי רבה: מאמר לבית שמאי, אירוסין עושה או נשואין עושה? תפשוט דנשואין עושה, דאי אירוסין עושה – הא תנן: נערה המאורסה אביה ובעלה מפירין נדריה.

אמר רב נחמן בר יצחק: מאי יפר – יפר בשותפות.

תניא נמי הכי ברבי אמי: שומרת יבם, בין יבם אחד בין שני יבמין, רבי אליעזר אומר: יפר, ורבי יהושע אומר: לאחד ולא לשנים. רבי עקיבא אומר: לא לאחד ולא לשנים.

The Gemara raises a difficulty with Rabbi Ami's explanation of Rabbi Eliezer's opinion: **We learned in the mishna that Rabbi Eliezer said: Just as with regard to a woman he acquired for himself through betrothal, he nullifies her vows, so too with regard to a woman acquired for him from Heaven,<sup>N</sup> i.e., the *yevama*, isn't it logical that he should be able to nullify her vows? Now if Rabbi Ami's interpretation is correct, and the mishna is referring to a case where a *yavam* performed levirate betrothal, then it is actually a case where he acquired a woman for himself by performing levirate betrothal. The Gemara answers: Nevertheless, it is a case where he acquired for himself a woman who was imposed upon him by means of Heaven.**

The Gemara raises another difficulty with Rabbi Ami's interpretation, in that if it is correct, **you can resolve the dilemma that Rabba raised: Does levirate betrothal, according to Beit Shammai, merely effect betrothal,<sup>N</sup> or does it effect full-fledged marriage?** According to Rabbi Eliezer, **you can resolve the dilemma by proving that it effects marriage.** The proof is as follows: **Because if levirate betrothal effects only betrothal, why does the mishna mention only the *yavam* with regard to nullification of vows? Didn't we learn in a mishna (*Nedarim* 66b) that with regard to a betrothed young woman, her father and her husband together nullify her vows? If levirate betrothal renders her betrothed to the *yavam*, the father should also be mentioned as a partner in the nullification.**

**Rav Nahman bar Yitzhak said:** This does not resolve the dilemma, as **what** could be the meaning of **nullify** in the mishna? It could mean that **he nullifies vows in partnership** with the father.

The Gemara comments: **It is also taught in a *baraita* that Rabbi Eliezer is addressing a case where levirate betrothal has been performed, in accordance with the opinion of Rabbi Ami: With regard to a widow awaiting her *yavam*, whether she is waiting for one *yavam*, if her late husband had only one brother, or for two or more *yavamin*, Rabbi Eliezer says: The *yavam* can nullify her vows, and Rabbi Yehoshua says: He can nullify her vows only in a case where she is waiting for one *yavam*, but not if she is waiting for two. Rabbi Akiva says: Nullification is not possible at all, not if she is waiting for one, and not if she is waiting for two or more.**

#### NOTES

Acquired for him from Heaven – **שהקנו לו מן השמים**: Why does Rabbi Eliezer assume that the *yevama* being acquired for him from Heaven creates a stronger reason to suppose that the husband can nullify the wife's vows than in the case of an ordinary betrothal? Some later commentaries explain that by its very nature, an acquisition from Heaven must be a completely flawless acquisition (*Hiddushei Batra*). Others explain that a betrothal that one accomplishes by himself is subject to being invalidated if he later discovers that the woman has some unknown flaw at the time of the betrothal. Acquisition from Heaven is not subject to invalidation (*Hever ben Hayyim*).

**אירוסין עושה וכו'** – The Commentary on *Nedarim* explains that the question is whether levirate betrothal effects full-fledged marriage, with all the entailed rights and obligations: If she dies he inherits from her; even if he is a priest, he is obligated to become ritually impure in the event of her death; and if she commits adultery, she and the adulterer are liable to be executed by strangulation. However, the Ran and the Rosh understand that the question is whether a woman who was betrothed by her *yavam* still requires a wedding canopy before they may consummate the marriage or not. If levirate betrothal effects full-fledged marriage, then the levirate marriage can be consummated without a marriage canopy. If it effects only betrothal, then a ceremony with a marriage canopy is performed before the levirate marriage is consummated.

NOTES

As in other matters there is no such distinction, etc. – וכשאר דברים וכו': The term other matters is referring to the punishment assigned to the *yevama* and the person with whom she engages in licentious intercourse, as explained later in the Gemara (75a). All agree that one is not liable to execution by stoning for engaging in sexual intercourse with a *yevama*, even if she has undergone levirate betrothal, regardless of the number of *yevamin* there are.

That you did not serve Rabbi Akiva – שלא שימשת את רבי עקיבא: Ben Azzai was a devoted student of Rabbi Akiva's. His comment here is a rhetorical way of expressing admiration for his beloved teacher.

LANGUAGE

Woe [*haval*] – תבל: This interjection is derived from the Hebrew and Aramaic root *het, beit, lamed*, meaning injury or destruction. It is an expression of regret over a loss.

אמר רבי אליעזר: ומה אם אשה שאין לו חלק בה עד שלא תבא לרשותו, משבאת לרשותו – נגמרה לו. אשה שיש לו חלק עד שלא תבא לרשותו, משבאת לרשותו – אינו דין שתגמור לו?

The *baraita* continues: **Rabbi Eliezer said to his disputants: And just as if one accepts that a man cannot nullify the vows of a woman in whom he has no share until she enters into his jurisdiction through betrothal, yet once she enters into his jurisdiction, she is fully under his authority for the nullification of her vows, so too with regard to a woman in whom he has a share before she enters his jurisdiction, i.e., his *yevama*, once she enters his jurisdiction, is it not logical that she be fully under his authority for the nullification of her vows?**

אמר לו רבי עקיבא: לא, אם אמרת באשה שקנה הוא לעצמו, שבשם שאין לו חלק בה – כך אין לאחרים חלק בה. תאמר באשה שהקנו לו מן השמים, שבשם שיש לו עמה חלק – כך יש לאחרים חלק בה!

The *baraita* continues: **Rabbi Akiva said to him: No, your *a fortiori* inference is refutable. If you spoke of a man having authority over the vows of a woman he acquired for himself through betrothal, that would be different: Just as he has no share in her before betrothal, so too others have no share in her. Will you say the same with regard to a woman who is acquired for him from Heaven, i.e., his *yevama*, for whom, just as he has a share in her, so do others, i.e., his brothers, also have a share in her, as they also are *yevamin*?**

אמר לו רבי יהושע: עקיבא, דברך בשני יבמין, מה אתה משיב על יבם אחד? אמר לו: כלום חלקנו על יבם אחד ועל שני יבמין, בין שעשה בה מאמר בין שלא עשה בה מאמר? וכשאר דברים כן נדרים.

The *baraita* continues: **Rabbi Yehoshua said to him: Akiva, your statement fits a situation with two *yevamin*, but what do you answer for the case of one *yavam*? Rabbi Akiva replied to him: Did we distinguish between one *yavam* and two *yevamin*, regardless of whether he performed levirate betrothal or whether he did not perform levirate betrothal? And just as in other matters there is no such distinction,<sup>n</sup> so too with regard to vows.**

בלשון הזה אמר בן עזאי: חבל עליך בן עזאי שלא שימשת את רבי עקיבא.

The *baraita* adds a comment: **Ben Azzai stated his response to hearing this discussion in this language: Woe [*haval*]<sup>l</sup> to you, ben Azzai,<sup>p</sup> that you did not serve Rabbi Akiva<sup>n</sup> properly.**

מאי Since this *baraita* was cited in support of Rabbi Ami's interpretation, the Gemara asks: **In what way**

PERSONALITIES

**Ben Azzai – בן עזאי:** Shimon ben Azzai was one of the *tanna'im* during the period that the Sanhedrin was in Yavne, after the destruction of the Second Temple. Although he did not receive formal ordination, which is why he is never called Rabbi, he was respected as one of the great Torah scholars of his generation.

It appears that ben Azzai did not study Torah in his youth until he met the daughter of Rabbi Akiva, who promised to marry him if he were to commit himself to learn Torah. He began his studies with Rabbi Yehoshua and Rabbi Yishmael and ultimately became a devoted student and colleague of Rabbi Akiva, whom he considered the leading Sage of the generation. His devotion to Torah study was so complete that he found normal family life to be impossible. It is not clear if he

ever actually married Rabbi Akiva's daughter, or if perhaps he married her but lived with her only for a brief period.

Ben Azzai's statements are found in both *halakha* and *aggada* throughout the Talmud, and he served as a mentor for the next generation of *tanna'im*, including Rabbi Meir and Rabbi Shimon. Aside from his study of the revealed Torah, ben Azzai was involved in the study of its esoteric traditions. According to the Gemara, together with Rabbi Akiva, ben Zoma, and Elisha ben Avuya, ben Azzai entered the *pardes*, i.e., delved into esoteric mystical matters. Only Rabbi Akiva survived the experience unscathed, while ben Azzai is described as having gazed and died. The Gemara comments (*Hagiga* 14b): With regard to him the verse states: "Precious in the eyes of God is the death of His saints" (Psalms 116:15).