



## Maamar Achar Maamar

On a biblical level a *yavama* becomes the wife of the *yabam* only through *yibum*, and a *yavama* is only free to marry anyone else through *chalitza*. We have discussed previously that the *Chachamim* instituted that a *maamar* is required prior to *yibum*, much like *kidushin* precedes *nissuin*. The *maamar* resembles *kidushin* in that it is performed either with an object value or through a contract. The *Chachamim* were also concerned and decreed that if the *yabam* gave the *yavama* a *get* (divorce document) then it would have an effect. *Chalitza* would still be required, but no further *yibum* can be performed.

The fifth *perek* opens with a debate whether a *maamar* followed by a *maamar* or a *get* after a *get* in the context of *yibum* is effective. *Rabban Gamliel* argues that is not while the *Chachamim* maintain that they are. The *Bartenura*, when presenting the position of *Rabban Gamliel* explains that if there were two *yevamot* and one *yabam* and he gave a *get* to both, according to *Rabban Gamliel* the second *get* would not be significant such that he would be able to marry the second *yavama*'s relatives. Similarly, in a case where there are two *yevamot* and one *yabam* and he performed a *maamar* to both, or if there were two *yabamim* and one *yevama* and they both performed a *maamar*, the second *maamar* is not effective and a *get* (to undo that *maamar*) is not required.

The *Rishonim*<sup>1</sup> however question why *Rabban Gamliel* maintains that a *maamar* after a *maamar* is ineffective. In a case where there are two *yevamot*, and *yibum* has been performed to one, the brothers are indeed prohibited to marry the *tzara* (second *yevama*). However the relationship is not punishable with *caret*; as would normally be the case for one's brother's wife. Instead it would constitute a "regular" negative prohibition (*lav*). According to the *Chachamim*, *kidushin* with one that is prohibited by way of a *lav* is binding and they would be married despite the violation. Consequently, if performing *kidushin* to the *tzara* after

*yibum* is effective, then in our case we should treat the *maamar* as *kidushin* and it should be binding even after the (first) *maamar*. Why then does *Rabban Gamliel* maintain that there is no *maamar* after a *maamar*?

One answer is that *Rabban Gamliel*'s ruling in the *Mishnah* is according to the position of *R' Akiva* who maintains that *kidushin* is not binding in a relationship that is prohibited by way of a *lav*. Consequently, in the above case, *kidushin* to the *tzara* would not be binding and does not present a difficulty for *Rabban Gamliel*. Why does the *Gemara* not comment that *Rabban Gamliel* rules like *R' Akiva*? One answer is that the *Chachamim* argue with this position in the *Mishnah*. The *Gemara* only comments that the *Mishnah* is to be interpreted according to one opinion when the position in the *Mishnah* is not argued against. Alternatively, it is because *Rabban Gamliel* does not maintain the position of *R' Akiva* in general.

The *Ritva* and *Tosfot* find this answer difficult. Instead they maintain that the position of *Rabban Gamliel* can be understood to be consistent with the opinion of the *Chachamim* that maintain that *kidushin* is binding despite an *issur lav*. They explain that *kidushin* is only binding when we consider *kidushin* that is biblical in nature. In the other case, after *yibum* is performed to one of the *yevamot*, there is no longer a *zika* (obligation to perform *yibum* or *chalitza*). Consequently, the act of *kidushin* to the *tzara* is biblical. In our case however, after the first *maamar* there is still a *zika*. Consequently, even though the act at that point may resemble *kidushin*, it at best can only be considered a *maamar* which has rabbinic force. According to *Rabban Gamliel* however, the *Chachamim* only instituted one *maamar*. Therefore, any additional *maamar* according to *Rabban Gamliel* is meaningless.

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<sup>1</sup> This question along with both answers are found in the *Tosfot*, *Ramban*, *Rashba* and *Ritva*.

**Revision Questions**

יבמות ד: ז' - ו' א:

- If one performs *chalitzah*, who inherits his late brother's property? (ד: ז')
- If one performs *yibum*, who inherits his late brother's property? (Include both opinions) (ד: ז')
- If one performs *chalitzah*, which of her relatives is he forbidden to then marry? (ד: ז')
- Regarding the previous question, which of his relatives is she forbidden to then marry? (ד: ז')
- If one's brother marries his divorced wife's sister, then dies, must he perform *yibum*? (ד: ח')
- What is the law regarding a case where while a *shomeret yabam* is waiting, one of the brothers goes and performs *kidushin* to her sister? (ד: ט')
- Regarding the previous question, in what scenario would the brother be told to give the sister of the *shomeret yabam* a *get*? (ד: ט')
- How long must one wait before performing *yibum* or *chalitzah*? (ד: י')
- Describe the three opinions regarding to who else this waiting period applies. (ד: י')
- If four brothers die (without children) can one of the remaining brothers perform *yibum* to all four wives? (ד: י"א)
- If one brother dies (without children) that had more than one wife, can the brothers perform *yibum* to both wives? (ד: י"א)
- Regarding the previous case, is there ever a preference to which wife *yibum* or *chalitzah* should be performed? (ד: י"א)
- The offspring from which three forbidden relationships are debated as being considered *mamzerim*? (ד: י"ב)
- What are the three different opinions regarding the definition of a *mamzer*? (ד: י"ג)
- When is one allowed to marry his wife's sister? (ד: י"ג)
- Explain the debate regarding the following statement: (ד: א:)  
"אין גט אחר גט ולא מאמר אחר מאמר"
- What else is required if the brother performed:
  - A *ma'amar* and *get*?
  - A *ma'amar* and *chalitzah*?
  - A *ma'amar* and *yibum*? (ד: ב:)
  - A *get* then a *ma'amar*?
  - A *get* and then "yibum"?
  - A *get* and then *chalitzah*?
  - *Chalitzah* and then a *ma'amar*? (ד: ג:)
- What is the law regarding a case where one brother who had two wives die (without children) where one brother is left and he:
  - Performed a *ma'amar* to both women?
  - Performed a *ma'amar* to one, and "yibum" to the other?
  - Performed a *ma'amar* to one, and gave a *get* to the other?
  - Gave a *get* to one and a *ma'amar* to the other?
  - Gave a *get* to both women? (ד: ד:)
  - Did *chalitzah* to both women?
  - Did *chalitzah* to one and performed a *ma'amar* to the other? (ד: ה:)
- Complete the following phrase and explain: (ד: ה:)  
"אין אחר \_\_\_\_\_ כלום, בין בתחילה, בין באמצע בין בסוף"  
"\_\_\_\_\_ בזמן שהיא בתחילה \_\_\_\_\_, באמצע ובסוף \_\_\_\_\_"
- Regarding the previous question, on what point does R' Nechemiah argue? (ד: ה:)
- If one is forced to perform *yibum*, is *yibum* valid? (ד: ו:)

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18 February ג' אדר	19 February ד' אדר	20 February ה' אדר	21 February ו' אדר	22 February ז' אדר	23 February ח' אדר	24 February ט' אדר
Yevamot 6:2-3	Yevamot 6:4-5	Yevamot 6:6-7:1	Yevamot 7:2-3	Yevamot 7:4-5	Yevamot 7:6-8:1	Yevamot 8:2-3

