



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*¹ 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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¹ 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: י"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: י"ב')
 - A *get* then a *ma'amar*?
 - A *get* and then "yibum"?
 - A *get* and then *chalitzah*?
 - *Chalitzah* and then a *ma'amar*? (ד: י"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: י"ד')
 - Did *chalitzah* to both women?
 - Did *chalitzah* to one and performed a *ma'amar* to the other? (ד: י"ד')
- Complete the following phrase and explain: (ד: י"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: י"ה')
- If one is forced to perform *yibum*, is *yibum* valid? (ד: י"א')

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
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Melbourne, Australia

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Sunday -Thursday
Rabbi Mordechai Scharf
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Kollel Magen Avraham
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Rabbi Chaim Brown
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http://www.dafyomi.co.il/calend
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
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

