



Chalutzah and a Kohen

The *Mishnah* (9:3) discusses the law regarding a marriage that was prohibited yet binding. In other words, if the relationship is prohibited by way of a rabbinic prohibition or a negative biblical prohibition that is punishable with lashes, then the marriage is still binding and a divorce would be required. The *Mishnah* however lists further rabbinic "fines" that are placed on such a union, e.g. the base financial obligation of a *ketubah* does not apply. The *Mishnah* however differentiates between cases as to when these fines apply. In cases where the union involved "*shniyot*" – rabbinically prohibited familial relationships – the fines are listed. In the following cases however, the fines do not apply: where a *kohen gadol* marries a widow, a *kohen* marries a divorcee or a *chalutzah*¹, a *mamzer* or *netin* marries a *bat Yisrael* or an *Yisrael* marries a *netina* or *mamzeret*.

The *Bartenura* explains that the difference between *shniyot* and the second group is that *shniyot* are prohibited rabbinically whereas the rest are prohibited on a biblical level. Why should the two groups be treated differently? The *Bartenura* explains that this is because "*divrei sofrim tzrichim chizuk*" - rabbinic laws require strengthening. Consequently, in the case of *shniyot*, they are reinforced with these fines if violated. The difficulty with this explanation is that the odd case in the second list, those that do not have the fines applied, is where a *kohen* marries a *chalutzah*, which is prohibited rabbinically.

The *Bartenura* explains that despite the fact that a *kohen* marrying a *chalutzah* is prohibited rabbinically, in this case it is treated like those that are prohibited on a biblical level. The *Tosfot Yom Tov* however finds this explanation difficult. Why should this case be treated than *shniyot*? Furthermore, the *Gemara* (85b) points to the case of a

chalutzah to reject the rabbinic-biblical distinction in search for a different explanation.

Instead the *Tosfot Yom Tov* cites the *Beit Yosef* who explains that really the case of *chalutzah* should not be included in the second list and is treated the same as *shniyot*. Why then does it appear in our text? He explains that in general, throughout *Mishnayot* that cases of a *gerusha* and *chalutzah* are mentioned together. The *Mishnah* happened to follow this pattern as well.

Perhaps however, we can defend the *Bartenura* based on the *Ritva* that differentiates between the prohibition of *chalutzah* and *shniyot*. When the *Gemara* (24a) mentions that the prohibition of a *kohen* marrying a *chalutzah* is rabbinic, the *Gemara* follows by citing a *Beraita* that suggest that prohibition is biblical. The *Torah* (*Vayikra* 21:7) writes: "...and a woman divorced from her husband, [a *kohen*] shall not take...". The *Beraita* explains that had the *pasuk* written "*isha*" we would have learnt the prohibition of a *kohen* marrying a divorcee. We learn the prohibition of a *kohen* marrying a *chalutzah* since it is written "*ve'isha*". The *Gemara* answers that the *Beraita* should not be understood as the source for the prohibition. Instead the *pasuk* is to be understood as an *asmachta*. In other words, the source is rabbinic, and the *pasuk* is used as a hint or a mark used for memory.

The *Ritva* reasons that this is the basis for why the prohibition of *chalutzah* is treated that same as other biblical prohibitions. Recall that the fines apply to rabbinic prohibitions since they require strengthening. As we have seen the prohibition of *chalutzah* is different. Since there is an *asmachta*, it is less likely that one will mistakenly err and no further strengthening is required.

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¹ This refers to a woman whose husband died without them having any children. The brother is required to before either *yibum*, effectively marrying her, or *chalitzah*, a process through which she is free to marry someone else. A *chalutzah* refers to a woman who has performed *chalitzah*.

Revision Questions

יבמות ח' ד' – ט' ה'

- What are the two opinions regarding when a *saris* is *choletz*? (ח' ד')
- In what situations does a *saris* invalidate a *yavamah* from marrying a *Kohen*? (ח' ה')
- Can a *bat Yisrael* eat *trumah* if she is married to a *Kohen* who is: (ח' ר')
 - A *saris chamah*?
 - An *androginus*?
- What are the four cases where a woman is permitted to her husband but not the *yabam*? (ט' א')
- What are the four cases where a woman is not permitted to her husband but permitted to the *yabam*? (ט' ב')
- What are the four cases where a woman is not permitted to either her husband or *yabam*? (ט' ב')
- If one marries one of the *shniyot la'eriyot*: (ט' ג')
 - Is the brother required to perform *yibum*?
 - Are the children *kasher le'kehuna*?
 - Does the wife have a *ketubah*?
- If a *kohen* marries a *chalutzah*, does his wife have *ketubah*? (ט' ט')
- Which of the following can eat *trumah* and which can eat *ma'aser*: (ט' ד')
 - *Bat Yisrael* engaged to a *Kohen*?
 - *Bat Yisrael* engaged to a *Levi*?
 - *Bat Levi* engaged to a *Kohen*?
- If a *bat Yisrael* marries a *Kohen* and has a child, then her husband dies, can she eat *trumah*? (ט' ה')
- If she then marries a *Levi* and has a child, then her husband dies, can she eat *trumah*? Can she eat *ma'aser*? (ט' ה')
- If she then marries an *Yisrael*, can she eat *trumah*? Can she eat *ma'aser*? (ט' ה')
- Regarding the previous question, when would she once again be able to eat *trumah*? (ט' ה')
- Describe two scenarios through which a *bat Kohen* who marries a *Yisrael*, would once again be able to eat *trumah*? (ט' ו')
- What is the law regarding a woman that remarries after receiving news that her husband died overseas, but then discovers her original husband is still alive? (ט' ז')
- Regarding the previous question, which brothers perform *chalitzah* if both "husbands" then die? (ט' ז')
- What is the difference if the women mistakenly remarried with or without the instruction of the *beit din*? (ט' ז')
- What is the law if a woman remarries after hearing that her husband died, and then hears that her husband was alive but recently did indeed die? (ט' ז')
- What is the law regarding a case where a man's wife was overseas and witnesses came and told him that she had died. Then, based on that testimony, he goes and marries his "late"-wife's sister. Then it is discovered that his original wife is still alive? (ט' ז')
- What is the case described in the *Mishnah* where the conclusion is: (ט' י')

"מותר בראשונה, שלישית, ובחמישי... ואסור בשניה וברביעית..."

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4 March י"ז אדר	5 March י"ח אדר	6 March י"ט אדר	7 March כ' אדר	8 March כ"א אדר	9 March כ"ב אדר	10 March כ"ג אדר
Yevamot 10:6-7	Yevamot 10:8-9	Yevamot 11:1-2	Yevamot 11:3-4	Yevamot 11:5-6	Yevamot 11:7-12:1	Yevamot 12:2-3

