



Perform the Mitzvah Now!

The *Mishnah* (4:5) teaches that the oldest brother should be the one to perform the *mitzvah* of *yibum*. If he does not want to, then we approach each of the other brothers in age order. If no one wants to, then we return to the oldest brother and assert that it is his *mitzvah*, and either *yibum* or *chalitzah* must be performed.

The next *Mishnah* (4:6) however discuss other cases where the brothers who declined taking action, might have a different claim. That might say that they should wait for the young minor brother to grow up and allow him to perform *yibum*. Alternatively, they might claim that they should wait for their older brother to return from overseas (or recover). In both cases we reject those claims. We say to the oldest brother present that he must perform either *yibum* or *chalitzah*. Why?

The *Bartenura* explains that even if the brother that is overseas is the oldest brother, with whom it would be the best way to perform the *mitzvah*, we still do not delay. He explains that this is based on the general principle that we simply do not delay the performance of *mitzvah*. Why?

The *Melechet Shlomo* cites the *Terumat HaDeshen* that notes that the *Mishnah* selects the example of waiting for a brother to come from overseas rather than from place to place within Israel. He explains that it is specifically the cases of one coming from overseas and waiting for the young brother to grow up, since the young brother might die, or the older brother might not come and then the *mitzvah* will not be fulfilled. He understands that we *would* have to wait for the older brother to come from place to place within Israel. In other words, the concern with delaying the *mitzvah* is when there is a concern that it could compromise its fulfillment.

The *Terumat HaDeshen* (35) cited by the *Melechet Shlomo* was responding to question whether the practice of waiting until *motzei Shabbat* to perform *kiddush levanah* is correct. The *Terumat HaDeshen* responds by differentiating between how many days remain until the middle of the month after *motzei Shabbat*. He cites the *Ohr Zarua* that it is best to recite

it on *motzei Shabbat* when one is dressed in their finest clothing. If however, there are only a few days left till the middle of the month after *motzei Shabbat* then there is a risk that there will be a few cloudy nights in a row and they will miss out on the *mitzvah*.

The *Terumat HaDeshen* cites our *Mishnah* as the proof. Since there is a debate whether the *yibum* of the youngest is preferable to the *chalitzah* of the oldest, both cases of waiting for the youngest or oldest brother are included in the *Mishnah*. This is to stress that despite the fact that if we wait, the *mitzvah* might be able to be performed in the best possible way, if there a risk that the *mitzvah* will not be performed, the *mitzvah* must be performed without delay.

The *Mishnah Berurah* (*Biur Halacha* 426, s.v. *be'motzei*) cites the *Bach* however that there is an issue with delay in performing a *mitzvah* – period. To be clear, this issue is not that the delay might compromise the performance, but rather delaying performing a *mitzvah* itself is problematic. Consequently, the *Bach* is against delaying performing *kiddush ha'chodesh* and one should perform the *mitzvah* immediately at the earliest time, after three days have past (from the *molad*).

We find a similar position in the *Magen Avraham* (25:2). The *Rama* rules that if one has *tefillin* and but not *tzitzit*, he does not need to wait for *tzitzit*, but rather put *tefillin* on immediately. The *Magen Avraham* explains that this is because we do not delay in performing a *mitzvah* even at the expense of performing it later in a better manner. He cites the *Yalkut* that explains that performing a *mitzvah* in its time is itself desirable – *chavivah mitzvah be'shaata*.

The *Nemukei Yosef* (12b, *Rif*, s.v. *Alecha*) also explains that we do not delay performing a *mitzvah*, however he also adds we do not want to keep the *yavama* like *aguna*, preventing her from remarrying. In other words, we do not want to delay *chalitzah* since it is detrimental to the *yavama*.

Revision Questions

יבמות ד: א' – ה': א'

- What is the law if a brother performs *chalitzah* on a *yavamah* and then it is discovered that she was pregnant? (Include both cases) (ד': א')
- What is the law if a brother performs *yibum* on a *yavamah* and then it is discovered that she was pregnant? (Include all three scenarios) (ד': ב')
- What is a *shomeret yavam*? (ד': ג')
- What is the law regarding the inheritance of a *shomeret yavam* that dies? (Include both opinions) (ד': ג')
- What is the only difference between being married through *yibum* and being married in the regular manner? (ד': ד')
- Which brother is first approached to perform *yibum* or *chalitzah*? (ד': ה')
- If all brothers decline, which brother must perform either *yibum* or *chalitzah*? (ד': ה')
- If one of the brothers is overseas, do we wait for him to return? (ד': ו')
- If one performs *chalitzah*, who inherits his late brother's property? (ד': ו')
- If one performs *yibum*, who inherits his late brother's property? (Include both opinions) (ד': ו')
- 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 yavam* 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 yavam* 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: (ה': 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*?

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
12 November כ"ח חשוון	13 November כ"ט חשוון	14 November א' כסלו	15 November ב' כסלו	16 November ג' כסלו	17 November ד' כסלו	18 November ה' כסלו
Yevamot 5:2-3	Yevamot 5:4-5	Yevamot 5:6-1	Yevamot 6:2-3	Yevamot 6:4-5	Yevamot 6:6-7:1	Yevamot 7:2-3

