



Achot Zekukato - Revisited

The *Mishnah* (3:1) discusses the case of four brothers, two of which were married to two sisters. Those two brothers died leaving the two sisters as widows. The *Mishnah* teaches that the surviving brothers must perform *chalitzah* and they cannot perform *yibum*. The *Bartenura* explains that since the sisters are *zekukim* – require *yibum* or *chalitzah* – each is defined as the *achot zekukato*. In other words, one cannot before *yibum* to one of the sisters since she is considered the sister of the other woman with which there is a *zika*. The *zika* makes here considered “like” his wife. Consequently, it is similar to a *yavama* that has an *issur arayot* – a forbidden relationship.

The *Tosfot Yom Tov* comments that do not think that if *chalitza* is performed to one, thereby severing the *zika*, that he can performed *yibum* to the other. The reason is that since at the time of *nefila*, at the time the brother died, she was *assur* to him, she continues to be *assur* to him. Recall that last week we explained that normally one is not allow to marry a woman that was married to his brother. It is only in the context of *yibum* that she is permitted to him. We can understand that since at the time when the obligation of *yibum* would have been generated she is *assur*, the basic prohibition of marrying one’s brother’s wife remains in place. Nevertheless, since the *zika*, this bond, is rabbinic, *chalitzah* is still required.

The *Gemara* attempts to prove from this *Mishnah* the law of *zika*. The *Gemara* however counters that there might be a different reason. Perhaps the law of *zika* does not exist and the reason why the brother cannot both perform *yibum* is out of concern that if one performed *yibum* and then the other died before performing *yibum*, the other *yavama* will then be exempt from *yibum* or *chalitzah* (since she is now his wife’s sister). In other words, by performing *yibum* to one, he effectively was *mevatel* (cancelled) the *mitzvah* of *yibum*. It is out of this concern that both brothers must perform *chalitzah* instead.

Questions can be asked on both understandings of the *Mishnah*. According to the understanding that it is not based on *zika*, one could perform *chalitzah* first and then one would be able to perform *yibum*. Why must both brothers perform *chalitzah*? The *Ritva* however explains that there is a concern that the order might be reversed and *yibum* performed first, which would then remove the possibility of performing *chalitzah* to the other *yavama* as explained above.

Even according to the understanding based on *zika*, one could ask that one should be able to perform *chalitza* to the *yavama* whose husband died second, and then perform *yibum* to the first wife. That is because the first *yavama* was initially permitted for *yibum* when her husband died. It was only after, when the second husband died that this issue of *achot zekukato* came into play. The *Rashba* (28b, s.v. *ha de’akshinai*) explains that even according to that understanding based on *zika*, there is a concern the one might get the order wrong and perform *yibum* first, and *mevatel* the *mitzvah*.

The *Tosfot Yeshanim* however explains that if there is a law of *zika*, it would be severe, and no one would make that mistake and have a relationship with an *achot zekukato* – tantamount to rabbinic *arayot*. Instead, he explains, once the first wife becomes *assur* even momentarily, that *issur* continues.

We however rule that also long as she was permitted at the time the husband died, then even if there was a period that she was *assur* he would be able to perform *yibum*. The *Tosfot* however explain that there is a concern that a different mistake will be made, if we allow *chalitzah* followed by *yibum*. One will certainly perform *chalitzah* first, but it might be performed with the first *yevama* instead. If that were the case, since the second *yevama* was *assur* to him from the time her husband died, she will still be *assur* and one subsequently performing *yibum* would be a prohibited. (See also *Kesef Mishnah Yibum* 6:4).

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Revision Questions

יבמות ב' א' – ג' י'

- If two unrelated people married two sisters but were not sure who married who, what should they do? (ב' א')
- Regarding the previous question, what should their brothers do if they then die (without any children)? (ב' א')
- Regarding the previous question, is the law different if one of the husbands had more than one brother? (ב' א')
- Regarding the previous question, is the law different if both the husbands had more than one brother? (ב' א')
- In general, on which brother does the responsibility of *yibum* initially lie? (ב' ח')
- What is one suspected of doing if he is obligated to divorce a woman he married? (ב' ח')
- If witnesses come with news that a woman's husband was killed, are they allowed to marry his wife? (ב' ט')
- What other two cases share the same law as the previous question? (ב' ט-י')
- What are the two exceptions to the answers for the previous two questions? (ב' י')
- If two brothers marry two sisters and then die (without any children) can the two remaining brother perform *yibum*? (ג' א')
- What is the law if they both go ahead and perform *yibum*? (ג' א')
- Regarding the previous case:
 - Is the law any different if one of the remaining brothers is a relative of one of the widowed sisters (*issur ervah*)? (ג' ב')
 - What is the law if one of the remaining brothers has an *issur kedushah* with respect to one of the widowed sisters? (ג' ב')
 - What if one of the remaining brothers has an *issur ervah* to one of the sisters and the other brother has an *issur ervah* to the other? (ג' ג')
- In which previous *Mishnah* did we see a case relating to the laws derived from the previous set of questions? (ג' ג')
- Explain the debate regarding the case where two brothers marry two sisters and die (without any children) and what the single remaining brother must do. (ג' ד')
- Regarding the previous question, when can the brother perform *yibum* to one of the widowed sisters? (ג' ד')
- Explain the debate regarding the following case: three brothers, two of which marry two sisters. One dies, and the single brother performs a *ma'amar*. The second married brother then dies. What is the remaining brother required to do? (ג' ה')
- What is the law regarding the following case: three brothers, two of which marry two sisters and the third brother is also married. One of the brothers that married one of the sisters dies, and the third brother performs a *yibum* then dies (with out any children). What is the remaining brother required to do? (ג' ו')
- Regarding the previous case, would the law change if the wife of the remaining brother (i.e., one of the sisters) died prior to the second brother dying? (ג' ו')
- Regarding the first *Mishnah* in the *masechet*, when do we say that the *tzarot* still require *chalitzah*? (ג' ח')
- Three brothers marry three different women. If the first brother dies, and the second performs a *ma'amar* then dies, what is the third brother required to do? (ג' ט')
- If two brothers marry two sisters, and one of the brothers dies, and then soon after the wife of the remaining brother dies, can he perform *yibum* to the remaining sister? (ג' ט')
- If two people performed *kidushin* on two women, and then by *chuppah* the couple switched by mistake, when would the men have transgressed three different *issurim*? (ג' י')

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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
5 November כ"א חשוון	6 November כ"ב חשוון	7 November כ"ג חשוון	8 November כ"ד חשוון	9 November כ"ה חשוון	10 November כ"ו חשוון	11 November כ"ז חשוון
Yevamot 4:1-2	Yevamot 4:3-4	Yevamot 4:5-6	Yevamot 4:7-8	Yevamot 4:9-10	Yevamot 4:11-12	Yevamot 4:13-5:1

