

Volume 3. Issue 2.

Understanding a Ma'amar

The third *perek* contained many complex cases of *yibum*. One of the details added to some of these cases was when a brother performed a *ma'amar* to a *yavamah* (his late brother's wife whom requires *yibum*). From the *Mishnayot* learnt (2:1-2, 3:5-6), it appears that a *ma'amar* does not replace or equal *yibum*, yet nevertheless does form somewhat of a connection between the brother and the *yavamah*. But what is a *ma'amar* and what is its source?

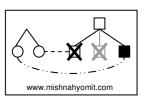
The Rambam (Yibum 2:1) explains:

Rabbinically (*midivrei sofrim*), it was instituted that the *yavam* would not be with his *yavamah* until he performs *kiddushin* before two witnesses with a *prutah* (coin) or something the value of a *prutah* – this is called *ma'amar*. The *ma'amar* does not 'acquire' the *yavamah* completely [like *yibum*]...

The *Rambam* explains that the *ma'amar* is a rabbinically enacted process that mirrors *kiddushin* (see 2:2). It was enacted as an intermediate stage before *yibum* in much the same way as *kiddushin* is an intermediate stage before *nisuin* (see *Rambam Ishut* 1:1-2).

However the very status of a *ma'amar* is a subject of debate in a *Mishnah* learnt this week (3:5):

Three brothers: two of which marry two sisters and the remaining brother is single. One of the brothers dies, and [the single brother] performs a *ma'amar* [but as yet has not performed *yibum*]. After that, the other [sister-marrying] brother dies. *Beit Shammai* say, the brother may stay with his wife [i.e. the one he performed a *ma'amar* to] and the other sister can leave [without even *chalitzah*] as



she is the sister of his wife. Beit Hillel says, he must give his 'wife' a get and perform chalitzah and must perform chalitzah to the other sister.

Beit Hillel's understanding is consistent with the above explanation of a ma'amar. In simple terms since a ma'amar is not complete yibum, even though he performed a ma'amar she would still require yibum. Consequently this is similar to a case of a person who is required to perform yibum to two sisters. Each of the sisters is defined as "achot zikato" (the sister of the woman he is required to perform yibum to) which is a (rabbinically) forbidden relationship.

The only difference is that since he performed a *ma'amar* to one of the sisters, she would also require a *get* to "undo" it.

However *Beit Shammai*'s position appears to be more difficult. It appears that once he performs the *ma'amar*, she is his wife completely (see the *Gemara* for a full analysis of *Beit Shammai's* opinion). The *Rashi* indeed explains that *Beit Shammai* hold the *ma'amar* is considered like *yibum* ("ke'knusa damya"). The question remains, according to *Beit Shammai*, on what level is this *ma'amar* operating.

The *Tosfot* (*Yevamot* 29a s.v *Beit Shammai*) maintain that the *ma'amar* acquires on a biblical level. *Rashi* however (29b) appears to state that even *Beit Shammai* agrees that it is only rabbinic. The *Tosfot* find this position difficult when analysing many cases. For example, in the case above, if the *ma'amar* was only affective on a rabbinic level, according to *Beit Shammai* how could the other sister go without even *chalitzah*? (*Achot zikato* requires *chalitzah*!)

The *Tosfot* (s.v. *ela*) suggest that perhaps *Rashi* understands that the *ma'amar* has the ability to remove the prohibition of *achot zikatot* such that he may complete *yibum*. The other sister may leave without *chalitzah* only <u>after</u> he does indeed complete *yibum*. However this is not the simple understanding of the *Mishnah*. Also *Rashi* (18a s.v. *kinyan gamur*) appears to state explicitly that a *ma'amar* affects marriage in its fullest sense.

Alternatively the *Rashba* explains that *Rashi* agrees that *Beit Shammai* hold that a *ma'amar* works on biblical level. The point *Rashi* is making is that it is not equivalent to *kiddushin* with respect to the punishment associated with having relationship with *ba'alat ma'amar* as compared to an *arusa* (engaged women).

R' Kornfeld (http://www.dafyomi.co.il/yevamos/insites/ye-dt-029.htm) suggests that *Rashi* may understand that according to *Beit Shammai* perhaps a *zikah* alone is really considered like being married. Therefore even without a *ma'amar* the remaining sister is considered his wife's sister. The *Chachamim* however rule stringently against this rule in practice. The *ma'amar* in this case simply reverts the *Chachamim's* stringent ruling, thus enabling the other sister to leave freely.

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Revision Questions

יבמות גי:אי – די:די

- If two brothers marry two sisters and then die (without any children) can the two remaining brother perform *yibum*? (k': א')
- What is the law if they both go ahead and perform *yibum*? (גי: אי)
- Regarding the previous case:
 - O Is the law any different if one of the remaining brothers is a relative of one of the widowed sisters (issur ervah)? (κ': ב')
 - What is the law if one of the remaining brothers has an *issur kedushah* with respect to one of the widowed sisters? (ι : ι)
 - 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? (x':k')
- In which previous *Mishnah* did we see a case relating the laws derived from the previous set of questions? (\(\chi \cdot \c
- 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. ('ד: ד')
- Regarding the previous question, when can the brother perform *yibum* to one of the widowed sisters? (ג':די)
- 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? (κ': σ':)
- 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? ('n: 'x)
- Regarding the previous case, would the law change if the wife of the remaining brother (ie, one of the sisters) died prior to the second brother dying? (ג'י: יוֹי)
- Regarding the first *Mishnah* in the *masechet*, when do we say that the *tzarot* still require *chalitzah*? ('r.'')
- 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? ((v:v:v))
- 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?
- If two people performed *kiddushin* on two women, and then by *chuppah* the couple switched by mistake, when would the men have transgressed three different *issurim*?
- What is the law if a brother performs *chalitzah* on a *yavamah* and then it is discovered that she was pregnant? (Include both cases) (ידי:איז)
- 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) (7': 2')
- What is a *shomeret yavam?* (ד':ג'י)
- What is the law regarding the inheritance of a *shomeret yavam* that dies? (Include both opinions) (די:גיי)
- What is the only difference between being married through *yibum* and being married in the regular manner? ('T: 'T')

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Next Week's Mishnayot...

				Thursday	Friday	שבת קודש
20 th August 21 כ"ו אב	21 st August כייז אב	22 nd August כייח אב	23 rd August כייט אב	24 th August לי אב	25 th August אי אלול	26 th August בי אלול
Yevamot 4:5-6 Y	Yevamot 4:7-8	Yevamot 4:9-10	Yevamot 4:11- 12	Yevamot 4:13- 5:1	Yevamot 5:2-3	Yevamot 5:5-6