



Mitzvot and Intent

The *Mishnah* (6:1) teaches that the *mitzvah* of *yibum* is performed whether it was done so, deliberately (*mezid*) inadvertent (*shogeg*), whether it was forced or performed willingly.

Rashi (53b) explains that the case of *shogeg*, is where the brother that performed *yibum*, thought that the *yabam* was his wife or someone else. The difficulty is that *Rashi* explains that the case of *mezid* is where he had the relationship, but not for the purpose of the *mitzvah* but rather *zenut*. It would seem that *Rashi's* explanation of *shogeg* as where he thought it was someone else would also be considered a case of *zenut*. The *Tosfot Yom Tov* therefore explains that the difference between *shogeg* and *mezid* is that in the case of *shogeg* the identities are mistaken, whereas for *mezid*, the identities are known, however the intentions at the time of *yibum* was not for the *mitzvah*.

The *Minchat Chinnuch* (598:6) however finds this *Mishnah* difficult. He notes that most *rishonim* rule that *mitzvot tzrichot kavana* – one has to have intention to fulfill a *mitzvah* when performing it in order for the *mitzvah* to be fulfilled. He continues that even according to the opinions that *kavana* is not required, “anti-*kavana*”, having the express intent not to perform the *mitzvah* would prevent its fulfillment. That being the case, it is difficult to understand how the *mitzvah* of *yibum* is fulfilled in the cases of *shogeg* and *mezid*.

The *Minchat Chinnuch* continues by noting that the *Gemara* derives the law in our *Mishnah* from *pesukim* in the *Torah*. Consequently, he explains that even though *yibum* would work in these cases and they would now be considered married, the *mitzvah* would

have not been fulfilled. They would have to have another relationship with the intent to fulfill the *mitzvah* for the *mitzvah* to be fulfilled. He explains that a practical implication of this understanding is they would not be able to get divorced immediately after a *yibum* that was *shogeg* or *mezid*, with performing the *mitzvah*.

Interestingly, in the footnotes in the *Machon Yerushalaim* edition (8) there is a note that if they are already considered married, then the *zika* (the bond that obligates *yibum* or *chalitzah*) is no longer present. That being the case, how then could the *mitzvah* of *yibum* be fulfilled even if it is followed with the intention to fulfill the *mitzvah*?

The *Kovetz Shiurim* (*Ketuvot* 249) however explains that since the *kinyan* (that which makes them considered married) does not require *kavana*, the *mitzvah* is also fulfilled. Based on this, the *Kovetz Shiurim* differentiates more broadly in the law regarding *mitzvot tzrichot kavana*. He explains, that according to the opinion that requires *kavana*, there is a difference whether the act itself is the *mitzvah* or whether the outcome is a *mitzvah*. If the act is a *mitzvah*, for example eating *matzah* or blowing *shofar*, then intent is necessary. If however the main part of the *mitzvah* is the outcome, then intent at the time of the act is not critical. He uses the example of the *mitzvah* of having children. Even if there was no intent at the time of conception to fulfill the *mitzvah*, the *mitzvah* is nonetheless fulfilled.¹

Yisrael Bankier

¹ The *Kovetz Shiurim* continues that it is possible that this distinction also applies regarding the issue of *mitzvah haba'ah*

be'veirah. For example, he suggests that even if one's child was a *mamzer*, they would still have fulfilled the *mitzvah* of *peru urvu*.

Revision Questions

יבמות ה' ב' – ז' ג'

- What else is required if the brother performed:
 - A *ma'amar* and *get*?
 - A *ma'amar* and *chalitzah*?
 - A *ma'amar* and *yibum*? (ה' ב')
 - A *get* then a *ma'amar*?
 - A *get* and then “*yibum*”?
 - A *get* and then *chalitzah*?
 - *Chalitzah* and then a *ma'amar*? (ה' 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? (ה' ד')
 - Did *chalitzah* to both women?
 - Did *chalitzah* to one and performed a *ma'amar* to the other? (ה' ה')
- Complete the following phrase and explain: (ה' ו')
 “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? (ה' ו')
 - If one is forced to perform *yibum*, is *yibum* valid? (ה' ז')
 - If one had relations with in *issur arayot be'shogeg*, can the woman still marry a *kohen*? (ה' ח')
 - Explain the debate regarding a daughter of a *kohen* who was a *gerusha* and got engaged (*kidushin*) to a *kohen*, whether she can eat *trumah*. (ה' ט')
 - Regarding the previous case, when does everyone agree she can eat *trumah* and when does everyone agree that she cannot? (ה' י')
 - Can a *kohen gadol* marry a widow from *kidushin*? (ה' יא')
 - If a *kohen* was *mekadesh* a widow and then was elected to be a *kohen gadol* can he still marry her? (ה' יב')
 - If a *kohen's* brother dies (without children) leaving a wife, and this *kohen* performs a *ma'amar* and is then elected to be a *kohen gadol*, can he complete the *yibum*? (ה' יג')
 - Explain the debate whether a *kohen* can marry an *aylonit*. (ה' יד')
 - Explain the debate between *Beit Shammai* and *Beit Hillel* regarding the requirement of *pru u'rvu*. (ה' טו')
 - According to R' Yochanan ben Bruka who is commanded to perform the *mitzvah* of *pru u'rvu* and what is his source? (ה' טז')
 - If a *Kohen* marries a *chalutzah* can the servants that she brought with her eat *trumah*? (Be specific) (ה' טז')
 - If a *Kohen* marries a *bat Yisrael* can the servants that she brought with her eat *trumah*? (ה' טז')
 - If an *Yisrael* marries a *bat Kohen* can the servants that she brought with her eat *trumah*? (ה' טז')
 - According to R' Yosi if a *bat Yisrael* that marries a *kohen* is widowed while pregnant (with no other children), can her servants eat *trumah* and why? (Be specific) (ה' טז')

Shiurim

ONLINE SHIURIM

Yisrael Bankier
mishnahyomit.com/shiurim

Rabbi Reuven Spolter
mishnah.co

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendar/myomi/myomi-thisweek.htm>

APPS

Mishnah Yomit
mishnahyomit.com

All Mishnah
 Orthodox Union

Mishna Yomi
 Our Somayach, South Africa

Kehati

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
 In US dial: 718 906 6400
 Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
19 November ו' כסלו	20 November ז' כסלו	21 November ח' כסלו	22 November ט' כסלו	23 November י' כסלו	24 November יא' כסלו	25 November יב' כסלו
Yevamot 7:4-5	Yevamot 7:6-8:1	Yevamot 8:2-3	Yevamot 8:4-5	Yevamot 8:6-9:1	Yevamot 9:2-3	Yevamot 9:4-5

