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סוטה כ״ו
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OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

The Gemara continues to cite the Baraisa that challenges R' Nachman's assertion that all opinions agree that an איילונית does not drink the bitter waters.

R' Nachman's position is defended by asserting that there is a dispute between Tannaim regarding this matter.

The dispute whether an איילונית drinks the bitter waters is explained.

The necessity of two of the rulings in the Baraisa is clarified.

2) Clarifying the Mishnah

The novelty of the Mishnah's teaching that the wife of a kohen drinks the bitter waters is explained.

The Gemara clarifies the Mishnah's statement that the wife of the kohen who drinks the bitter waters is permitted to her husband.

The necessity for the Mishnah's ruling that the wife of a סריס drinks the bitter waters is explained.

The novelty of the Mishnah's ruling that the husband can warn his wife concerning any one of the עריות is explained.

The source that a warning about a minor is not a valid is identified.

3) One who is not a man

The Gemara suggests a possible interpretation for the Mishnah's case of "one who is not a man," but it is rejected.

Another possible interpretation is presented but it is also rejected.

Tangentially, the Gemara analyzes R' Hamnuna's teaching regarding a warning about an idolater and that an idolater disqualifies a woman from eating teruma.

R' Pappa explains that "one who is not a man" refers to an animal.

The source that harlotry does not apply to animals is explained.

The meaning of the phrase שכבת זרע is understood to exclude דבר אחר.

R' Sheishes explains that דבר אחר refers to a warning related to ביאה שלא כדרכה.

Rava rejects this explanation and says that it refers to a warning related to דרך אברים.

Abaye rejects this explanation and suggests that it refers to a warning concerning נשיקה.

Abaye's explanation is rejected and the Gemara reverts back to Rava's explanation and answers Abaye's challenge. ■

Distinctive INSIGHT

Do we exclude a Jewish woman from the episode of Sotah if she is married to a convert?

אשת גר ועבד משוחרר פשיטא, מהו דתימא דבר אל בני ישראל ולא גרים קמ״ל

The Gemara in Berachos (19a) refers to the Mishnah in Eduyos (5:6) where we find a dispute between Akavya ben Mahalalel and the Rabbanan. Akavya holds that we do not offer the sotah-waters to a woman who is a convert or who is a freed maidservant. Rabbanan are of the opinion that we do give the waters to these women.

Rashi and the Bertinoro argue whether this dispute applies only to where the woman in these cases is the newcomer to Judaism, or if it also applies to where a Jewish woman is married to a man who is a convert or a freed slave. Rashi, in Berachos, explains that the source for the halacha to exclude women converts (opinion of Akavya) is from the verse which introduces the episode of Sotah (Bemidbar 5:12): "Speak to the Children of Israel..." Rashi understands that this verse excludes wives of husbands who are converts, and it certainly excludes where the women themselves are the converts.

Rabbi Obadiah from Bertinoro (to Eduyos, ibid.) explains that the source for the opinion of Akavya ben Mahalalel is the verse which states that the woman will be "a curse and oath among your people" (ibid. v. 27). This excludes women who are not native to the Jewish people. Accordingly, this only excludes the case where the wife is the convert, but not where a Jewish woman married a man who is a convert. It could be, according to this, that Akavya would agree that in this case, of a Jewish woman, that she could be

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REVIEW and Remember

1. Why, according to Tanna Kamma, does an old woman married to a young man without children not drink the bitter waters?

2. What is the novelty of the Mishnah's ruling that the wife of a Kohen drinks the bitter waters?

3. What is the novelty of R' Hamnuna's ruling that a husband can warn his wife against seclusion with an idolater?

4. What is the source for the principle אין זנות לבהמה?

HALACHAH Highlight

Terminating a pregnancy

מעוברת עצמו ומינקת עצמו או שותה וכו'

His own pregnant or nursing wife either drinks ...

There was once a woman who was unfaithful to her husband. Afterwards, she deeply regretted her behavior and sought guidance from her local Rov to do Teshuvah. A short time later she realized that she was pregnant with an illegitimate fetus, as since the time she had been unfaithful she did not menstruate, which had previously followed a very consistent cycle. She then went to the Rov to inquire whether it would be permitted for her to drink a solution that would terminate the pregnancy. Teshuvas Chavos Yair[1] ruled that it is prohibited for her to abort the fetus that is a mamzer since he has all the rights and privileges of any Jew other than marrying into the קהל and to even sit on the Sanhedrin. Rav Yaakov Emden[2], however, ruled that it is permitted to abort the fetus in this case. In the time of Sanhedrin an adulterous woman is executed for her transgression and Beis Din would not wait for her to deliver her baby in the event that she was pregnant. This means that fetus is considered as if it is already dead (נחשב הולד כבר קטלא). Although nowadays we do not have a Sanhedrin that has the power to execute, but the liability for execution is still applicable and that is enough to permit aborting this fetus.

Rav Moshe Feinstein[3] wrote at length to disagree with the position of Rav Yaakov Emden and dismissed his position entirely. Even in the time of Sanhedrin if a person committed a capital crime in the presence of witnesses and was properly warned before he transgressed the prohibition so that it is clear that Sanhedrin will pronounce a guilty verdict and the accused will be executed, he is not liable to death until Sanhedrin actually pronounces a guilty verdict. Accordingly, if someone killed the accused before the guilty verdict was pronounced that person has violated the prohibition against murder as if he killed someone who had not committed any crime whatsoever. Sefer Minchas Kenaos challenges Rav Yaakov Emden's position from Tosafos's comment to our Gemara. Tosafos writes that a sotah who is pregnant is not given the bitter waters to drink so that the fetus should not die. According to Rav Yaakov Emden's position this should not be a concern because if the sotah is guilty of the suspected crime the fetus should be killed together with her. The very fact that Tosafos expresses this concern is proof that the even if the mother deserves to be killed it does not automatically permit killing her fetus. ■

1. שו"ת חות יאיר סי' ל"א
2. שאילת יעב"ץ ח"א סי' מ"ג
3. שו"ת אג"מ ח"ב סי' ס"ט ■

(Insight. Continued from page 1)

eligible to drink the bitter waters.

Keren Orah notes that the explanation of Rashi seems to be a bit difficult based upon the flow of the analysis in our Gemara. After stating the ruling of our Mishnah that the wife of a convert is eligible to drink the bitter waters, the Gemara questions and asks, "Is this not obvious?" And the Gemara is forced to point out why we might have thought that such a woman is not eligible. Yet according to Rashi, this very point is part of the dispute between Akavya and Rabbanan. In this very case, Akavya holds that a wife of a convert does not drink the waters. It is not logical that the Gemara would think that this is obvious when we know that there is a dissenting opinion which holds that a wife of a convert does not drink! ■

STORIES Off the Daf

Twenty-Four Months

לא ישא אדם מינקת חבירו

A certain talmid in Austria once wished to marry a divorced woman. The fact that she was raising an infant from her first marriage didn't deter him at all. Since the talmid knew the halachah that one may not marry a divorcee until the child is twenty-four months old, they planned their wedding for exactly that date. This was not too long after he had met her, and the wedding was very lively and joyful. When one of the sages living in the talmid's town heard about the event, he immediately objected.

The scholar said, "Last year was a leap year, so his twenty-four months are actually short a month until the two-year limit. The Mordechai says clearly that if one year is a leap year one must wait an extra month before getting married. He must divorce his new wife just like anyone else who violated this prohibition."

The talmid was shell-shocked. How could he possibly divorce his new wife? He decided to at least consult with another great chacham from his area. "My colleague is technically correct that the Mordechai says that you must wait the extra month, and if this was the only opinion your wife would be in the category of מינקת חבירו, a woman who is still nursing his fellow Jew's child, and you would definitely need a divorce as we see in Sotah 26. This is not the only opinion, however. The Hagahos Maimoneos holds that one need wait only twenty-four months even if one of the years is a leap year.

He proves this from the language of the Gemara: 'twenty-four months.' If it had said two years, this would have implied like the opinion of the Mordechai. But 'twenty-four months' indicates that one may marry after that many months regardless of whether or not it adds up to a full two years."

He concluded, "בדיעבד, you may rely on this opinion!" ■

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