

OVERVIEW of the Daf

1) Explaining the necessity for the exposition of the word עליה (cont.)

It is demonstrated that one cannot apply the principle of "once one prohibition is removed we can remove multiple prohibitions" in this case.

The Gemara suggests one case where the principle of "once one prohibition is removed we can remove multiple prohibitions" could be applied, thus necessitating the exposition of the word עליה.

Alternatively, the היקש of R' Yonah is cited that equates all עריות to one another and once we permit one to marry his brother's wife for the mitzvah of yibum we would permit all עריות as well.

R' Acha of Difti inquires why the היקש concerning the other עריות is made to the case of a brother's wife rather than to the case of one's wife's sister.

Two answers to this inquiry are presented.

Rava suggests that the exposition is needed to prohibit the cowife rather than to prohibit one's wife's sister.

Two unsuccessful attempts to refute Rava's explanation are presented.

R' Ashi suggests a proof from our Mishnah of Rava's assertion.

R' Acha bar Bivi Mar explained the original Baraisa in light of Rava's interpretation.

Rami bar Chama challenges Rava's interpretation and the exchange between the two is recorded.

R' Ashi suggests that the word עליה is teaching a permissive rule rather than a prohibitive rule.

R' Kahana refutes this suggestion.

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REVIEW and Remember

- Given the choice, should the hekesh be applied to create a stringency or a leniency?

- According to Rava, is a verse needed to prohibit performing yibum on an ערוה?

- How is it known that the עליה is to prohibit rather than to permit?

- How does one divorce a Yevamah?

Distinctive INSIGHT

The law of a co-wife according to Rebbe

כל היכא דאיכה תרי ליקוחין דאי בעי נסיב האי ואי בעי נסיב האי שריא

Rebbe does not learn the source of צרה from the word עליה as we saw in the Baraisa earlier (3b). Rather, in the Baraisa on our daf Rebbe learns that when a brother is faced with the choice of marrying his brother's wives, of which he may only take one, this is only allowed when he can choose either woman. This is indicated in the verse ולקחולקחה take her. This teaches that if one of them is an ערוה to him, and she is therefore prohibited, he may then not marry the other wife, either. This is the source in the Baraisa which Rebbe uses to teach that a צרה of an ערוה is prohibited.

Tosafos (ד"ה כל היכא) asks that using this approach, the mitzvah of yibum should not be applicable to any situation where one of the co-wives is not legally eligible to be married. The Baraisa deals with a case where one of the women is an ערוה to the surviving brother. However, let us consider where the woman is ineligible due to an עשה איסור, for example, a widow to a Kohen Gadol. The Gemara later (20b) rules that this woman cannot be taken for yibum, but chalitza should be done. Yet according to Rebbe, as soon as one woman cannot be taken, the whole law of yibum should fall away. Tosafos also notes that according to the earlier Baraisa on 3b, the law of צרה is learned from our associating the verses of yibum and those of ערוה (a wife's sister), because both feature the word עליה. Accordingly, we can understand why marrying a co-wife would be liable for כרת, the punishment for marrying any ערוה. However, according to Rebbe, the law of co-wives is determined within the verses of yibum itself. How would we know that this is a case which is liable for כרת?

One of the answers of Tosafos is that chalitza is appropriate to the co-wife is because קידושין would be effective if offered to the wife who is an עשה איסור. For example, if a Kohen Gadol betroths a widow, although this is a violation of a positive commandment, the קידושין is valid. Therefore, the co-wife of an עשה איסור wife does need chalitza because both wives are included in the realm of ולקחה. ■

HALACHAH Highlight

The prohibition of marrying one's wife's sister

תלמוד לומר בחייה כל שבחייה

The pasuk therefore states: "In her lifetime," to indicate that the prohibition is in force under all conditions during the wife's lifetime.

Rav Chaim Alaphandri¹ posed the following query regarding the prohibition against marrying one's wife's sister. The Gemara states that the prohibition against marrying one's wife's sister applies only as long as one's wife is still alive. What will the halacha be if a man is married and his wife is inflicted with a wound that renders her a teraifah. Do we say that the teraifah wound diminishes her "life," since she will die within the year, and consequently if the man gives kiddushin to his wife's sister the kiddushin is effective, or perhaps as long as she is alive the prohibition remains in place and is not removed until she has died. Rav Chaim does not reach a definitive conclusion on this matter.

Later authorities point to a Gemara in Niddah² that has bearing on this matter. R' Yirmiyah inquired about a woman who was carrying a fetus that appeared like an animal and the fetus's father accepted kiddushin on her behalf. The significance of the question, explains the Gemara, is whether the betrother is permitted to marry the fetus's sister. Rashi's comments to this Gemara indicate that a teraifah is considered alive³ and as such it would be prohibited to marry her sister. Ramban⁴, on the other hand, disagrees with Rashi and maintains that if it was known with certainty that the fetus was not

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2) Clarifying the opinion of Rebbi

In an earlier cited Baraisa Rebbi derived the prohibition of the ervah and co-wife from the words ולקחה ויבמה. Two challenges to this exposition are presented.

The Gemara answers the challenges.

The Gemara explains how Rabanan and Rebbi will explain the phrase used by the other to arrive at their respective conclusions. ■

viable it is considered as if it is not alive and one would be permitted to marry the sister.

Rav Tzvi Hirsh Eisenstadt⁵, the Pischei Teshuvah, rules, based on the comments of Rashi, that a woman who is a teraifah is still considered to be alive and it is prohibited for her husband to marry her sister. On the other hand, Rav Yosef Shaul Nathanson⁶, the Shoel Umeishiv, writes that since a person with a teraifah wound will not live there is no prohibition against marrying her sister. The consensus of authorities⁷ concurs with the ruling of Pischei Teshuvah that as long as the wife is alive it is prohibited to marry her sister, even if she is mortally wounded. ■

1. בספרו מגיד מראשית יו"ד ס"ו ב' ומובא דבריו בפת"ש אה"ע סי' ט"ו ס"ק י"א
2. גמ' נדה כג
3. רש"י שם ד"ה למימרא
4. רמב"ן על הסוגיא הנ"ל
5. פת"ש הנ"ל
6. הסכמתו לשו"ת שבות יעקב
7. ע' שדי חמד אסיפת דינים מערכת אישות סי' א' אות ג' ופרדשס יוסף פרשת בראשית אות לו (עמ' נ' בדפוס החדש) ■

STORIES Off the Daf

Fear of sin

כי כל אשר יעשה מכל התועבות האלה ונכרת

The verse from Vayikra 18:29 cited in today's daf states that perpetrators of abominations will be cut off from Hashem, ונכרת. As we see from the following story, the Gedolei Yisroel were not only exceedingly careful to avoid any personal transgression, but also fled before the possibility of an issur kareis as if it were a raging fire.

The Brisker Rav, zt"l, had just inspected a mikveh and after due consideration declared it kosher for use. A certain person was present and blurted out to the Rav "But Rebbi, isn't that a crack over

there? Perhaps water will seep out and the mikveh will be prohibited, חלילה?"

The Brisker Rav carefully examined the spot that the other man had pointed out and saw that it was indeed slightly cracked. It was certainly possible that there might have been some seepage, which would have rendered the mikveh unfit. As soon as the Brisker Rav saw that he had nearly permitted that which is forbidden, he blanched and fainted dead away!

Forty years later, the Brisker Rav was one of the Gedolim of Yerushalayim. He miraculously escaped the Nazis, built a yeshiva and raised up a new generation of many students. Every major question made its way to his desk; many visitors seeking solutions to their seemingly insolvable problems found their way to him.

One day, a stranger arrived, but he greeted the Rav as if he knew him. The Brisker Rav asked, "Where do I know you from?"

The man said his name, and mentioned that he knew the Rav years earlier, in Brisk.

Upon hearing this, the Brisker Rav lost consciousness.

After he came to, the Brisker Rav explained, "As soon as I heard your name, I remembered the mikveh that was slightly cracked that I had mistakenly pronounced kosher for immersion. Although the crack might not have leaked, if it had I would have permitted an issur kareis. Forty years might have passed, but it was just as horrifying to me as if it had happened yesterday!" ■