

OVERVIEW of the Daf

1) Did Beis Shammai practice their rulings? (cont.)

The proof that began on the previous daf to prove that Beis Shammai followed their ruling is completed and refuted. Two additional attempts to prove that Beis Shammai practiced their rulings are cited and refuted.

R' Mesharshiya unsuccessfully challenged the assertion that Beis Shammai did not follow their rulings.

Mar Zutra offered two unsuccessful challenges to the assertion that Beis Shammai did not follow their rulings.

Two proofs are presented that demonstrate that Beis Shammai practiced their rulings.

2) Clarifying the Baraisa

The Gemara clarifies a point in the second Baraisa cited as proof that Beis Shammai practiced their rulings, namely, that the students inquired of R' Yehoshua whether the halacha follows Beis Shammai or Beis Hillel concerning doing yibum with the co-wife of an ervah. Secondly, what is the status, from the perspective of Beis Shammai, of the children of a co-wife of an ervah who did not receive chalitzah before marrying in accordance with Beis Hillel's position?

R' Yehoshua refused to answer the question regarding the dispute between Beis Shammai and Beis Hillel, but he

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REVIEW and Remember

1. Why did R' Tarfon yearn to marry the co-wife of his daughter?
2. Why did R' Akiva take two tithes from the same esrog?
3. Why did R' Yehoshua hesitate to offer a ruling concerning the halacha of marrying the co-wife of one's daughter?
4. Explain the two sides of the question concerning the daughter of one who remarried his divorcee?

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In loving memory of his father
ר' שלום בן ר' חיים אהרון, ז"ל
by Rabbi and Mrs. Chayim Knobloch

HALACHAH Highlight

Proving whether Beis Shammai conducted themselves according to their own rulings

מעשה וילדה כלתו של שמאי הזקן ופייחת את המעזיבה וסיכך על גבי המטה בשביל הקטן. שמע מינה—עשו

Tosafos, Maharam and Tosafos Peretz all note that Shammai agrees that an infant who needs his mother is exempt from the mitzvah of sukka, and the reason he arranged for the infant to be under a kosher sukka was only due to a personal stringency (see Sukka 28b). If this was only a חומרא, what proof does our Gemara see here that Shammai conducted himself according to his teaching? If his actions here did not reflect a legal ruling, it would then not be a violation of לא תתגודדו, because this would not be an indication of "two Torahs." Tosafos answers that if Beis Shammai did not follow their own rulings, they would not have done so even as a stringency, as even this has the appearance of two Torahs.

Aruch LaNer asks how this case indicates whether or not Beis Shammai conducted themselves according to their opinion. When the Gemara earlier suggested that Beis Shammai must have followed the rulings of Beis Hillel it was either because the Heavenly voice came and announced that Beis Hillel must be followed, or due to the fact that Beis Hillel was the majority. These reasons both apply only to Beis Hillel and Beis Shammai, who came later. However, Shammai himself certainly followed his opinion, as he predated the Heavenly voice and its instructions. Also, at that time, Hillel and Shammai did not represent separate factions or legal camps which confronted each other. What did the Gemara expect to prove from this case and the actions of Shammai himself?

Aruch LaNer explains that even without the factors mentioned above, in consideration of לא תתגודדו, it would still not have been appropriate for Shammai to publicly act in opposition to the accepted halacha that an infant is exempt from sukka. This is why the Gemara wonders how Shammai could have done such a thing. The Gemara answers that an observer would be under the impression that he did not do so for the mitzvah, but only to allow extra air to circulate. Therefore, the conduct of Shammai did not violate the guidelines of לא תתגודדו. ■

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by Mr. & Mrs. Dennis Ruben
in memory of
מרת ליבא בת ר' ישעי'

Distinctive INSIGHT

Does a yevama who marries a stranger become a זונה?

מה לאלמנה שהיא עצמה מתחללת

What about the widow who becomes desecrated.

The Gemara contrasts the Kohen Gadol who marries a widow where she and her children become desecrated and may not marry kohanim or eat teruma, and the man who remarries his divorcée (after she married another man in the meantime) where she and her children do not become desecrated from marrying kohanim or eating teruma by means of this marriage. Rashi¹ mentions that a yevama who marries a stranger without chalitza is the same as a man who remarries his divorcée; both cases violate regular prohibitions, and the yevama does not become desecrated by the relationship. The reason is that a woman becomes desecrated from kehuna only if the man was always prohibited, in contrast to the case of the one who remarried his divorcée, or the yevama who married a stranger, who becomes prohibited only after a particular event.

Rambam² rules that a yevama who marries a stranger without chalitza is considered a זונה and becomes prohibited to marry a kohen. This ruling is difficult in light of our Gemara that indicates that a yevama who marries a stranger without chalitza does not become a זונה. The Avnei Miluim³ suggests that although a yevama who marries a stranger without chalitza is categorized as a זונה, as mentioned by

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testified that Beis Shammai did not disqualify the children of a co-wife of an ערוה who did not receive chalitza before marrying in accordance with Beis Hillel's position. ■

Rambam, nevertheless, she does not become disqualified from eating teruma. The reason is that disqualification is not dependent on whether a woman is categorized as a זונה; rather it is related to whether she cohabited with someone who was always a stranger (i.e. prohibited) to her. Accordingly, the discussion in our Gemara would be limited to the subject of teruma. The difficulty with this explanation is that Rambam⁴ ruled that when a woman has relations that categorize her as a זונה or חללה she becomes disqualified from eating teruma.

Imrei Moshe⁵ explains that a woman becomes a זונה only if she has relations intentionally and not if the relations occurred unintentionally. Consequently, if the co-wife of an ערוה married a stranger without chalitza, following the opinion of Beis Hillel, she would not be categorized as a זונה even according to Beis Shammai because it is seen as if the prohibited relations occurred unintentionally. Therefore, Rambam's ruling is not difficult from our Gemara since our Gemara addresses a unique circumstance. ■

1. רש"י ד"ה היא עצמה
2. רמב"ם פי"ח מהל' איסורי ביאה ה"ג
3. אבני מילואים סי' ו' סק"ד
4. רמב"ם פ"ו מהל' תרומות ה"ז
5. אמרי משה סי' י' סק"ה ■

STORIES Off the Daf

The ways of the Torah are pleasant

דרכיה דרכי נועם

Our Gemara discusses the fact that we cannot have the women who may have required yibum do chalitzah since it may mean that their husbands will despise them. There is a general principle at work here: "The ways of Torah are pleasant, and all its paths are peace." Fulfillment of the mitzvos is meant to bring about greater mutual love among the Jewish people, not less.

Once, when Rav Shlomo Wolbe, zt"l, was in a certain town in Israel, he stayed at the home of one of the Rabbonim of

the town. The Rav asked Rav Wolbe to accompany him to a din Torah.

They arrived first, but when the other local Rav arrived, Rav Wolbe's host refused to stand for him. This seemed strange since the newly arrived Rav was far older than Rav Wolbe's host and common courtesy seemed to dictate that the younger Rav stand or at least make some gesture of respect toward the senior talmid chacham.

At this point, a few of the members of the community called over Rav Wolbe and pleaded with him, "Rabbi, please! Can't you make peace between the two Rabbis of our town? They haven't spoken to each other in so long."

When Rav Wolbe broached the subject with his host, the man expressed

indignation and began to heap abuse on the elder Rav. He began an impassioned litany of all his grievances against the other Rav. "How could I consider making peace with someone who acted that way toward me!"

When Rav Wolbe's host finished pouring out all his pent-up venom he concluded, "Only someone like Rav Avrohom Grodzinsky zt"l could be a Rav in the same city as another great Rav like Rav Aizik Sher, zt"l, and still treat him like a brother!"

Rav Wolbe retorted, "Don't be so sure! I am certain that it was harder for them to live with each other than for you two here. You must learn to be less judgmental and get along—דרכיה דרכי נועם! ■