

## OVERVIEW of the Daf

### 1) Clarifying R' Shimon's position (cont.)

The Gemara concludes R' Yosef's challenge to Rabbi Oshaya's understanding of R' Shimon and although Abaye attempts to defend R' Oshaya, nevertheless, his understanding is refuted.

Rav Oshaya (different than Rebbe Oshaya, the one who presented our initial understanding of R' Shimon) unsuccessfully challenges this understanding of R' Shimon's position.

R' Pappa maintains that R' Shimon disagrees only in the latter case, i.e. the non-contemporary brother is born after the contemporary brother performed yibum, and explains why the two Mishnayos were necessary.

A Baraisa is cited that supports R' Pappa's understanding of R' Shimon and refutes R' Oshaya's understanding of R' Shimon.

### 2) מאמר without consent

While clarifying the language of the previously-cited Baraisa, the Gemara explains that the Baraisa refers to a case where the yavam attempted to do מאמר with the yevama's consent but he did not obtain her consent. Being that the מאמר was done without her consent, the Baraisa explains that the ruling that a non-consensual מאמר is ineffective is not in accordance with Rabbi who maintains that it is an effective מאמר.

The Gemara identifies the point of dispute between the two positions.

### 3) Clarifying R' Shimon's position in the Baraisa

The Gemara clarifies which of the two cases, mentioned in the Baraisa, is disputed by R' Shimon.

R' Menashe bar Zevid clarifies the rationale behind Rabanan and R' Shimon's respective positions. ■

## REVIEW and Remember

1. Is the strength of zikah dependent upon the number of yavams?  
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2. How does R' Pappa understand R' Shimon's position?  
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3. Is מאמר effective if it is done without the consent of the yevama?  
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4. What is the source for Rabanan's position concerning yibum with a non-contemporary wife?  
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## HALACHAH Highlight

### Clarifying when זיקה applies according to Rabbi Shimon

הכא במאי עסקינן דנפול בבת אחת ורבי שמעון סבר לה כרבי יוס' הגלילי דאמר אפשר לצמצם

Reuven dies, and Shimon is his only brother. Levi, a third brother, is then born. Shimon does yibum with the wife of Reuven, and then Shimon dies. According to R' Oshia, Rabbi Shimon permits Levi to perform yibum with the former wife of Reuven. The is because when he was born, Levi already found her to be associated to Shimon through זיקה.

Our Gemara deals with a case where Reuven and Shimon and Levi are brothers. Reuven and Shimon are married to sisters, a mother and her daughter, and a mother and her granddaughter, respectively. When Reuven and Shimon die, Levi is faced with three wives of Reuven, one of which he could consider for the mitzvah of yibum. He is then faced with the three wives of Shimon, each of which is related directly to one of the three wives of Reuven. Using the rule of זיקה, the Gemara says that Levi can do yibum with one of the wives of Reuven, and the other two wives are released, as are the three wives of Shimon (one is an ערוה to the one Levi marries, and the other two are צרות of the ערוה). This, however, is only true if Reuven died before Shimon. If they died at the same moment, both sets are released, based upon the verse לצרור.

לצרור asks why we need a verse to teach us this ruling. The rule is (Kiddushin 50b) that in any grouping where the women cannot be married one after the other, the marriage is not valid even where one is taken first. The case is where a man approaches two sisters and offers kiddushin to one of them, without specifying to which. Abaye says that the offer of kiddushin is completely invalid. Since he cannot marry both together, the offer of kiddushin to one of the two is also meaningless. In our case, also, Levi cannot do yibum/chalitzah with the wives of Reuven and Shimon one set after the other. Why do we need a verse to release all of the wives?

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## Distinctive INSIGHT

### *Betrothal without the woman's full consent*

מה קדושין דעלמא מדעתה

Just as kiddushin in general [requires] her consent

A man once gave a silver ring to his kallah, in accordance with his custom. After the ceremony he gave her a gold ring and she commented that she thought that he was going to use a gold ring for the kiddushin. A few weeks later, the man asked whether it would be necessary to do kiddushin a second time since she claimed that she did not intend to accept a silver ring for kiddushin, and she thought the ring she was given was gold. Although her claim is certainly not strong enough to permit her to marry another man, perhaps it is sufficient to require the husband to do kiddushin a second time.

Rav Nosson Gestetner<sup>1</sup>, the L'horos Nassan, suggested that a comment of Rav Yosef Engel<sup>2</sup> could be utilized to resolve this issue. Rashi<sup>3</sup> writes that the phrase (Devarim 24:2), "And she goes and marries another man," teaches that a woman cannot be betrothed against her will. Rav Yosef Engel questions the necessity of this exposition. Any transaction between two people requires the agreement of the two parties, and if one of the parties is coerced into the agreement the transaction is invalid. Why, then, is an exposition necessary to teach that a woman cannot be betrothed against her will? Rav Engel answers that the purpose of the creation of woman is to become one with her husband, to be his "helper who is opposite him." Consequently, when a man betroths a woman, he is not really acquiring something from her. Rather she is presenting him with something that is his. Analo-

(Insight. Continued from page 1)

Based upon Rashba in Kiddushin 51a, we can say that the rule that kiddushin or זיקה does not apply when it cannot occur אחת בבת is applicable only when it is affected by an action, such as when a man offers kiddushin to two sisters. However, the simultaneous death of two brothers which presents their wives to the surviving brother creates an automatic זיקה. This is similar to a case in Bechoros 9a, where two male animals are born simultaneously. Abaye holds that only one has the holy status of a bechor, but we do not know which. Here, too, due to the automatic status of being a firstborn, the holiness applies to one of the animals. ■

gous to this is teruma. The farmer has the right to present the kohen of his choice with teruma but the teruma is considered to be the kohen's property. Therefore, one may think that since she is not transferring something to him, the kiddushin could be performed against her will. Thus the exposition is necessary to teach that a woman cannot be betrothed against her will.

Accordingly, we need her consent only when she has the ability to select the husband of her choice. But in the event that she has no choice, kiddushin could be performed even without her consent. Therefore, since she accepted kiddushin from this man and is not believed to claim that she thought she was going to receive a gold ring to annul her marriage, the only person to whom she could be married is her "husband." In this circumstance it could be said that her consent is not necessary. ■

1. שו"ת להורות נתן ח"ה סי' פ"ו
2. ספר ציונים לתורה כלל ל"ט דף ס ע"א
3. רש"י ד"ה קדושין דעלמא ■

## STORIES Off the Daf

### *"What is Zikah?"*

ולא שני לך בין זיקת יבם אחד

The Rav of Mekor Chaim, Rav Yaakov Levine, zt"l, was a student of Rav Boruch Ber Lebovitz, zt"l, in his youth. The incredible intensity of Rav Boruch Ber's learning and approach was legendary and can still be sensed when one studies his profound writings.

Rav Levine recounted, "One midnight deep in midwinter, I entered the

home of my great teacher. When I noticed that he was pacing the floor completely absorbed in some sugya I figured that I would not disturb his deep ruminations. However, as I turned to leave he noticed me and called me to him. Rav Boruch Ber said, "It is good that you have come at this critical time!" He then turned to me and asked, "Tell me. What is the exact meaning of the word 'zikah'?" I don't want to hear 'lomdus'—I just want the exact definition of the word."

I knew that the next day he was slated to give a shiur on the sugya of zikah. But I was completely astounded that af-

ter fifty years as a Rosh Yeshiva, after having given countless complex shiurim on this topic and after having written a lengthy and comprehensive monograph on zikah, he was searching for the meaning of the word as if he really didn't know what it was all about at all! But this was my Rebbe, Rav Boruch Ber. Learning without expending effort was to him of little moment! Even what he had learned with incredible toil before was not important. He was still toiling over the same question as if he had yet to discover an answer. "What is zikah?" ■