

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses the halacha when a man's chalutzah's sister or divorcee's sister falls to yibum. Additionally, the Mishnah addresses the case of a yavam who betrothed the sister of his yevama.

2) Clarifying the Mishnah

The Gemara notes that the term **וכן** that connects the first two halachos is imprecise, and it should say **אבל** instead.

Reish Lakish notes that it was in reference to this Mishnah that Rabbi taught that the sister of a divorced wife is Biblically prohibited but the sister of a chalutzah is only Rabbini-cally prohibited.

3) R' Yehudah ben Beseira's position

Shmuel rules in accordance with the opinion of R' Yehudah ben Beseira.

The Gemara inquires whether, in the event the wife dies, will the yavam become permitted to do yibum with the widow.

Rav and R' Chanina maintain that she is permitted whereas Shmuel and R' Assi maintain that she is prohibited.

Rava explains the rationale behind Rav's position.

Rav's opinion is unsuccessfully challenged.

Although Rav went back and forth with his explanation of the Baraisa, he concluded that the Baraisa follows the opinion of R' Elazar who maintains that if at any time the yevama was prohibited to the yavam, yibum will never again be permitted.

The Gemara explains how Shmuel and R' Assi could maintain their position even according to Rabanan who disagree with R' Elazar.

4) **MISHNAH:** Different opinions are cited concerning the scope of the restriction against a woman remarrying within three months of a previous marriage.

5) Chalitzah to a pregnant woman

The Mishnah's restriction against chalitzah to a woman within three months of a previous marriage seems to refute R' Yochanan's position that chalitzah to a pregnant woman is valid.

The Gemara explains how the Mishnah could be addressing a different concern and thus it does not refute R' Yochanan.

The conclusion is that chalitzah is delayed consistent with R' Yosi who said chalitzah cannot be done since yibum and chalitzah always go hand in hand.

R' Chanina unsuccessfully challenges the assertion that it is never possible to have a case of chalitzah without yibum.

6) Financial support for the yevama

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Distinctive INSIGHT

Who answered back to Rav Hamnuna?

לבתר דנפק אמר אמאי לא אמרת ליה רבי אליעזר היא וכו'

The Mishnah presented the case of a **שומרת יבם** where one of the brothers gave **קידושין** to her sister. Rav Yehuda ben Beseira rules that this brother must wait to marry the sister until another brother either does yibum or gives chalitzah to the yevama. This releases the problem of **אחות זקוקה**.

The Gemara introduces a related case. At the moment of the Reuven's death, the next brother, Shimon, was permitted to perform yibum. Shimon, however, married (or gave **קידושין**) to the sister of the yevama, thus rendering the yevama herself as prohibited to himself. If this sister now dies, can Shimon return and do yibum? Rav and Rav Hamnuna permit it. Rava explains this opinion of Rav. This yevama was permitted when the brother died. She was temporarily disqualified for yibum with Shimon when Shimon married her sister. She now becomes permitted once again with the death of his wife, the sister of the yevama. Rav holds that it is logical that she reverts back to her original state of being permitted.

Rav Hamnuna presents a challenge against Rav from the Mishnah on 29a, where we do not allow a third brother to marry a yevama when he was married to her sister, even after the death of his wife. When Rava heard this challenge, he did not know what to answer. He was silent. The Gemara reports that after Rav Hamnuna left, he wondered, "Why did I not say that the Mishnah represents the opinion of Rebbe Elazar found in a later Mishnah (109a) that once the yevama is not allowed, she is never to be permitted, even if the situation changes!"

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REVIEW and Remember

1. What is the rationale behind R' Yehuda ben Beseira's position?

2. Why is it necessary to wait three months before remarrying?

3. Why did R' Yosi not permit someone to do chalitzah within three months of his brother's death?

4. How long is a yevama supported from her dead husband's estate?

HALACHAH Highlight

Chalitza before three months have passed

היבמה לא תחלוץ ולא תתייבם עד שיש לה שלשה חדשים

A yevama should not do chalitza or yibum until three months have passed [from her husband's death.]

A woman was once widowed and the only yavam was not religious. After intense pressure, he agreed to do chalitza. The problem was that he was leaving the country and insisted that the chalitza be done before he left the country, which would be within three months of the death of his brother. Given these conditions, is it permissible for chalitza to be done even though the requisite three months did not pass?

Shulchan Aruch¹ rules that although one is required to wait three months before performing chalitza, nevertheless, if it was done within three months the chalitza is valid. Rema² cites others who maintain that a chalitza performed within the three months is not acceptable even b'dieved and the widow would require chalitza from all the brothers before she would be permitted to marry an outsider. Although given ideal conditions it is preferable to follow the ruling of Rema, in this circumstance where the alternative is that the widow will be left unable to marry, Rav Ovadiah Yosef³ permitted chalitza to be done. His reasoning is that the restriction is only Rabbinic, there is a concern of creating עגונה and it may be that Rema agrees with Shulchan Aruch since he did not note that the custom is to follow the strict opinion; therefore one can, even

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A Baraisa spells out how the yevama is supported during the three months following her husband's death and what happens after that period.

The Gemara inquires what happens when the yevama falls before a yavam who is a minor who has no means of supporting the widow.

R' Acha and Ravina dispute the matter. The Gemara rules that she does not receive support from her deceased husband's estate.

7) Chalitza within the three months

A Baraisa begins to discuss what happens if a yevama illegally receives chalitza within the first three months. ■

l'chatchila, allow the chalitza to be performed within the three months.

This question is similar to the question asked of Teshuvos Atzei Halevanon⁴ concerning a young woman that was widowed and the only yavam had to report to the army to fight in battle before the requisite three months would pass. Teshuvos Atzei Halevanon also ruled leniently given the pressing nature of the circumstances and the only qualification he added was that the widow should not be allowed to marry until the three months passed to be assure that she is not pregnant. ■

1. שו"ע אה"ע סי' קס"ד סע' א'

2. רמ"א שם

3. שו"ת יביע אומר ח"ח אה"ע סי' כ"ח

4. שו"ת עצי הלבנון סי' קכ"ז המובא בשו"ת יביע אומר הנ"ל אות ב' ■

STORIES Off the Daf

Two brothers and two sisters...

ולאו מי אותביניה לר' יוחנן חדא זימנא

After much earnest searching and prayer, the young man finally found his match. Interestingly enough, he chose a bride from the same family into which his own brother had already married. This meant that the young man's bride-to-be was the sister of his own sister-in-law. The young couple was very happily planning their wedding when tragedy struck. Suddenly, out of the blue, the groom's brother was killed in an auto accident. This obviously disrupted the wedding plans completely, and everything was put on hold until after the shiva. Once the week of mourning was over and the family redi-

rected its attention to the upcoming wedding, someone pointed out an even greater problem that threatened to end the relationship altogether. The chosson's brother had died childless, and it appeared as though the young man would have to do perform chalitza with his sister-in-law. Sadly, this would prohibit him from marrying his own kallah afterward.

At this point, a further complication was introduced. The family found out that the widow was pregnant. This changed the halachic picture considerably. Perhaps they were obligated to wait and make sure that the sister-in-law did not have a miscarriage? They presented Rav Aharon Kotler, zt"l, with the question, and his answer was that the couple could, indeed, marry.

One reason why the gadol permitted them to get married is because Rav

Yochanan's opinion regarding such a situation is rejected. We hold that yibum or chalitza performed with a pregnant woman does not take effect. This would mean that the widow's sister is not considered אחות זקוקתו as long as she is pregnant. ■

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The Gemara does not clearly indicate who is the speaker of this last statement. Some say it could have been Rav, or it could also be Rav Hamnuna suggesting an answer himself for the question. Tosafos Harosh (and מראה כהן) have a text which reads אמרי ליה, thus indicating that it was Rava who realized that he could have responded by saying that the Mishnah represents the opinion of Rebbe Elazar, while he holds like Rabanan. ■