

OVERVIEW of the Daf

1) A rumor the husband is still alive (cont.)

The case of R' Ashi's ruling that rumors are ignored is identified.

2) Beis Din's authorization to remarry based on the testimony of one witness

Zeiri cites a Baraisa that disagrees with the Mishnah's ruling that a woman who married with the authorization of Beis Din does not have to bring a Chatas. He rules that the ruling of the Beis Din is categorized as an error.

R' Nachman disagrees with Zeiri and cites proof to his position.

Rava supports Zeiri's position.

The opinion of R' Eliezer is cited as proof to Zeiri's position.

3) Clarifying the Mishnah

R' Elazar and R' Yochanan dispute the meaning of the phrase קלקלה in the Mishnah.

After clarifying the case under dispute a Baraisa is cited in support of R' Yochanan's position.

4) MISHNAH: The Mishnah discusses a number of cases of a woman who married or did yibum on the basis of incorrect testimony.

5) Clarifying the Mishnah

The terms אחרון and ראשון are explained.

The Mishnah had declared the child born to a yevama who married someone other than her yavam as a mamzer. A Baraisa states that this follows R' Akiva, but Rabanan disagree with Rabbi Akiva.

The exact position of Rabanan is clarified.

6) A yevama accepting kiddushin

R' Yehudah in the name of Rav demonstrates from a verse that there is no validity to the kiddushin accepted by a yevama.

Shmuel expresses uncertainty about the matter.

Ameimar is cited as ruling in accordance with Shmuel.

R' Ashi applies Ameimar's ruling to an additional case.

7) A yevama accepting nissuin

Rav is cited as ruling about the validity of נישואין accepted by a yevama.

Three explanations of this ruling are recorded.

8) A yevama accepting kiddushin (cont.)

R' Yannai reports that the group of students in the yeshiva ruled that kiddushin does not take effect on a yevama.

R' Yochanan unsuccessfully challenges the necessity for R' Yannai's ruling.

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Distinctive INSIGHT

When is it **אונס** and when is it **שווג**?

יחיד שעשה בהוראת בית דין חייב

The Noda B'Yehuda introduces a fundamental query, and based upon it he establishes a famous rule. Why is it, he asks, that a person is obligated to bring an offering when he acts in error due to his relying upon Beis din? What blame should he bear in this case?

In fact, there are several other cases where a person errs, but because he did so while following halachic guidelines there is no blame associated to the person at all. In these other cases he is considered an **אונס**. For example, earlier (35b), Tosafos (וּנְמִצָּת) discusses a case where a yavam waited three months after the death of his brother, as necessary, in order to ascertain that the yevama was not pregnant. He then performed yibum. It later was determined that she was pregnant from her first husband, and that she was prohibited to the brother-in-law, as an **אשת אה** without the mitzvah of yibum. The halacha is that the yavam is not liable at all. Most pregnancies are detectable at three months, and the halacha only requires that we use normal statistical criteria to determine whether she is pregnant. Here, too, Beis din ruled that she does not have to expect that her husband will return, and she acted based upon their approval. Why in this case is the woman obligated to bring an offering?

Noda B'Yehuda presents the following distinction. Sometimes, Beis din makes a mistake, as in the case of the husband who is still alive. Here, we now see that the witnesses were unreliable. In such a case, the woman is **שווגת**, as relying upon poor information bears some element of blame. However, the other case is where there was no mistaken judgment, but the reality was different than we expected. This was the case of the woman whose pregnancy was undetected at three months. The truth still is that most pregnancies are detectable at three months, and the fact that this case was an exception is no one's fault. There is no culpability at all in such cases. ■

REVIEW and Remember

1. What is the difference between a הוראה and a טעות?
2. What are the opinions concerning R' Akiva's opinion about relationships that cause mamzerim?
3. How does R' Ashi apply Ameimar's ruling like Shmuel?
4. Does kiddushin take effect with a yevama?

HALACHAH Highlight

Acting upon a mistaken ruling

הורו בית דין ששקעה חמה ולבסוף זרחה אין זו הוראה אלא טעות
 If Beis Din rules that the sun set and the sun subsequently shined, this is not an erroneous ruling rather it is an error.

Rambam¹ cites the two examples of mistaken rulings mentioned in our Gemara, namely, incorrectly declaring that Shabbos ended and granting a woman permission to remarry based on the testimony of two witnesses. He rules that these mistakes are not considered to be rulings rather they constitute errors and the people who ultimately acted in accordance with these rulings must bring korbanos to atone for their inadvertent violations of halacha. The Teshuvos Ginas Veradim² notes that the two cases mentioned in Rambam are publicized halachos, and he infers that there is a distinction between publicized rulings and non-publicized rulings. Publicized rulings that prove to be in error are classified as errors and those who followed those erroneous rulings must bring a Korban to atone for their violations. However, those who violated non-publicized rulings are classified as though the violation was beyond their control (אונס). Therefore they are not obligated to bring a Korban.

It seems, however, that this distinction is not universally accepted. Rav Yosef Chaim of Baghdad³, the Ben Ish Chai, was asked about a young woman who gave birth to a boy. Sometime thereafter she counted seven clean days and went to the mikveh. She thereafter saw blood and showed the stain to

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Reish Lakish challenges R' Yochanan's attempt to prove R' Yannai's position from the Mishnah.

The Gemara demonstrates that Reish Lakish's explanation of the Mishnah is not accurate. ■

her mother-in-law. Her mother-in-law informed her that Biblically this is tahor blood that follows childbirth, and it is just a stringent practice that people follow to consider this blood tamei. Based on this ruling she had relations with her husband. She later discovered that her mother-in-law was incorrect, because the blood of a woman who gives birth to a male can only be tahor until the fortieth day from childbirth and the blood that she discovered was found on the fifty-fifth day from childbirth and is Biblically tamei. The question addressed to Ben ish Chai is whether she is considered an אנוסה or שוגגת for this violation.

Ben Ish Chai answered that she is certainly considered a שוגגת for her violation. Even when Beis Din issues a mistaken ruling the violators are in need of atonement for their inadvertent violation (שוגג). Certainly when the mistaken ruling was issued by an individual the one who followed that ruling is in need of atonement. Since Ben Ish Chai did not mention that this case may be different since it was not publicized. It seems, therefore, that he does not draw the same distinction as Ginas Veradim. ■

1. רמב"ם פי"ד מהל' שגגות הל' ג'
2. שו"ת גינת ורדים חיו"ד כ"ל ו' סי' ו'
3. שו"ת רב פעלים ח"ג יו"ד סי' ט"ו ■

STORIES Off the Daf

The master of Mishnah and the master of Tanach

בעניונתנו צריכה גט

We find in Yevamos 92b that Shmuel says that if a man who is not a brother of the deceased marries a Yevama before she has obtained יבום or חליצה, he must give her a גט. It is necessary to do so because of a doubt. Why are we so unsure of whether or not such קידושין takes effect while she is in that indeterminate state? Because we simply don't know the exact meaning of the indicated verse. How can it be that the meaning is obscured in this way? The Chofetz Chaim, ז"ל, brings the Tana

Dibey Eliyahu to illustrate the point: "In this world the illumination of the oral Torah is revealed. In the next world, the illumination of the written Torah will be revealed." This may be why we find that one can be considered a talmid chacham even without knowing מקרא. We can only understand מקרא in light of the oral Torah now. True understanding of מקרא is mainly relegated to the next world.

A certain Rosh Yeshiva once sent a student to be tested by the Gadol Hador, Rav Shlomo Zalman Auerbach, ז"ל. After the test, the Gadol commented, "He really is an exceptional boy. He makes a good impression and has a broad knowledge of five Mesechtos. However, I am pained by the earlier learning which has been lost. He attended a good cheder

and was taught the entire Chumash with Rashi, but it appears as though he has forgotten it. Although the Gemara in Bava Basra 8 writes that when there was a famine and Rebbi wanted to feed exclusively those who had learned, he proclaimed, 'Let those who are masters of Tanach, come and eat. Let those who masters of Mishnah come and eat,' and so forth. The Rashash writes that this implies that one may be a true master of Mishnah even if he is not a master of Tanach. He argues against those who embarrass scholars who have a thorough knowledge of Shas and poskim but don't know verses.

The Gadol concluded, "Nevertheless, one who knows מקרא is much better off..." ■

