

## OVERVIEW of the Daf

### 1) Chalitzah within the three months (cont.)

It is noted that the Baraisa's requirement to wait three months before marrying even if chalitzah was done earlier is calculated from the time of the husband's death.

Rava explains why this ruling is not contradicted by Rav's ruling that a woman must wait three months after she receives her get.

### 2) Waiting three months before remarrying

The Gemara inquires why women must wait three months before remarrying.

R' Nachman in the name of Shmuel suggested an explanation.

Rava's challenge to this explanation was unsuccessful but nonetheless he offered his own explanation.

This explanation is unsuccessfully challenged.

The Gemara questions why three months are necessary when seemingly the same outcome could be accomplished waiting a smaller amount of time.

Each suggestion is rejected.

### 3) Marrying a pregnant woman

The Gemara inquires into the logic of the restriction against marrying a pregnant woman.

After many refinements the Gemara accepts an explanation of this halacha.

### 4) Clarifying the Mishnah

The Gemara explains how the language of the Mishnah is not repetitive.

It is reported that R' Yochanan ruled in accordance with the position of R' Yosi concerning the matter of who is required to wait three months before remarrying.

The Gemara notes that the opposing opinion on this mat-

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## REVIEW and Remember

1. Why is it necessary for women to wait three months between husbands?
2. What is the rationale for the restriction against marrying a friend's pregnant or nursing ex-wife?
3. Does a woman who cannot become pregnant, e.g. barren, old, sick, etc, have to wait three months between marriages?
4. What is the halacha when there is a dispute in a Mishnah followed by an anonymous ruling?

## Distinctive INSIGHT

### *The requirement to wait three months before remarrying*

בשלמה תמתין ב' חדשים ותנשא לא, דהיינו ספיקא אי בר תשעה לקמא וכו'

The Gemara determined that in order to clarify the paternity of a child which might be born, a woman must wait three months after the death of her husband before remarrying. The Gemara then analyzes why a three month period is necessary in order to satisfy this question. It is clear that one month is not enough, because in this case if a child will be born seven months later, we would not know if it was a eight-month child of the first husband or a seven-month child of the second husband. The Gemara probes, however, to determine why waiting two and a half months would not be sufficient. If a child is born seven months later, it is the child of the first husband (the Gemara assumes that if it is the child of the first man, it would not have been born after nine and a half months). The Gemara answers that there is still a possibility of uncertainty, in case the child is born six and a half months later. We would not know if it is a seven-month child of the second husband (which can be born early) or if it is a nine-month child of the first husband.

The Gemara requires a three month wait not only for a yevama following the death of her husband, but any woman who wishes to remarry must also wait three months before entering **נישואין** or **אירוסין**. Yet there is a difference between the reason why a yevama must wait as opposed to the reason why all other women must wait before getting remarried. A yevama is at risk of marrying her husband's brother without it being for the mitzvah of yibum. She must wait three months to determine that she is not pregnant. Whether a woman is pregnant can generally be noticed at three months. If she is pregnant at this point, yibum would be inappropriate, because she may give birth to a viable child, and marrying her husband's brother would be a sin of marrying an **ערוה**.

However, for all other women, the three month waiting period is not in order to determine whether it is permitted for her to marry the second husband. Even if she is pregnant, the second marriage is not prohibited, even within three months. Most pregnancies are outwardly noticeable at three months, and we could assume that if these signs surface, the child is from the first husband. However, we do not want to rely upon a **רוב** to determine paternity, so we require a three-month waiting period to solve this uncertainty. ■

This week's Daf Digest is dedicated  
 לע"נ מרת רבקה בת ר' שרגא פייטל ע"ה  
 By her children Mr. and Mrs. David Friedman

## HALACHAH Highlight

### Waiting three months to remarry after receiving a get

דרב אמר משעת נתינה ושמאל אמר משעת כתיבה

Rav maintains that a divorcee must wait three months from the time the was delivered and Shmuel holds that the three months are calculated from the time the גט was written.

There was once a woman who moved to Israel, leaving her estranged husband in Argentina. A year later she received her גט which was dated three months prior to when it was delivered. This woman wanted to marry a man who refused to wait three months from the date the גט was delivered and threatened that if he would be required to wait three months before marrying he would look for another bride. The question presented to Beis Din was whether this woman could receive permission to remarry immediately without waiting the requisite three months.

The Gemara Gittin<sup>1</sup> presents a more detailed analysis of this dispute between Rav and Shmuel concerning the calculation of when to begin counting the three months needed between marriages. A Baraisa that supports each of their respective opinions is cited. Rosh<sup>2</sup> notes that Rif rules according to Shmuel, namely that the three months are calculated from the moment the גט was written. Rosh questions the rationale behind Rif's decision to rule according to Shmuel, when the halacha should follow Rav since this is not a case involving monetary matters. Rosh also observes that the common custom in Germany and France was to follow the strict ruling of Rav and calculate the three months from the time of the delivery of the גט. Rambam<sup>3</sup> rules leniently like Shmuel; consequently, Shulchan Aruch<sup>4</sup> followed the majority

ter is R' Meir.

R' Chiya bar Abba states that R' Yochanan changed his position on the matter.

R' Yosef asserted that it was a Baraisa that indicates that the majority disagrees with R' Yosi that caused R' Yochanan to change his ruling.

The original ruling of R' Yochanan is unsuccessfully challenged.

### 5) R' Avahu's rulings

The Gemara presents a number of principles taught by R' Avahu regarding the rules of determining halacha. ■

opinion on the matter and ruled that the three month waiting period is calculated from the time the גט was written. Rema<sup>5</sup>, however, mentions the dissenting opinion of Rosh and writes that it is appropriate to follow the strict position.

Rav Ovadiah Yosef<sup>6</sup> cites a number of Poskim who write that the intention of Rema was not to rule that halacha is in accordance with the opinion of Rosh, but rather that one should be strict like Rosh. The difference between these two approaches is that the stringency of Rosh does not have to be followed in b'dieved circumstances and it can be said that this incident is considered a pressing circumstance; therefore one can rule leniently that the three months are calculated from the time the גט was written. ■

1. גמ' גיטין יח
2. רא"ש גיטין ב"ב סי' ו'
3. רמב"ם פ"א מהל' גירושין הי"ט
4. שו"ע אה"ע סי' יג סע' א'
5. רמ"א שם
6. שו"ת יביע אומר ח"ו אה"ע סי' ב' ■

## STORIES Off the Daf

### The adopted child

שמה ישא אחותו מאביו

Not so long ago, there were two brothers who loved each other deeply. Each wished the other only the best. Unfortunately, one brother didn't have any children. As the years went by, the second brother was blessed with one child after the other. When it was time for family simchas, it was painfully clear just how badly the first brother longed to have children. And the brother who had been blessed with a large family was acutely attuned to his beloved brother's distress. The one who had never had children tried every available avenue, he and his wife tried every segulah, but nothing worked. When

the second brother was blessed with his eleventh child, he decided to take action.

After the birth, the father said to his wife, "You see how Hashem has showered us with a wonderful family. Would you agree to give this one child to my only brother and his wife to raise? We live right near one another; we would see our son all the time. What a great mitzvah we could do by allowing my brother and his wife to raise a child!"

After a long and heartfelt discussion, the couple decided to give their eleventh son to his uncle and aunt, to be raised as their own child. As the child grew up, no one revealed to him that he was really his beloved "aunt and uncle's" son. He had no idea that he was not the natural child of the sweet couple that had raised him. Even on his wedding day, he was completely oblivious of his true parentage.

When someone mentioned this to Rav Chaim Kanievsky, shlit"a, he was firm in his disapproval. "This action was not proper since there is a halachah of הבחנה as we see in Yevamos 42. Unknowingly, he is prone to make very serious errors."

Someone else piped up and said, "Perhaps a second reason why they must tell him is to enable him to do the mitzvah of honoring his real parents? On second thought, maybe the fact that the child is doing his parents' will by being the devoted child of the aunt and uncle is sufficient?"

Rav Kanievsky spoke up and said, "But the young man could be doing the mitzvah of kibbud av so much better by actually honoring his parents in speech and action!" ■

