

OVERVIEW of the Daf

1) Doing yibum on the testimony of one witness (cont.)

R' Sheishes demonstrates from our Mishnah that the testimony of a single witness can be used to free a woman from her yibum obligation.

This proof is refuted.

Two more attempts to resolve this inquiry are presented and rejected.

2) R' Elazar ben Masya's exposition

R' Yehudah in the name of Rav criticizes the exposition of R' Elazar ben Masya and cites an alternative exposition that could have been made from the same verse.

3) MISHNAH: The Mishnah discusses the case of a man who married his wife's sister when he was informed that his wife died.

4) Clarifying the Mishnah

An interesting dichotomy is noted regarding the case of the Mishnah.

It is suggested that the Mishnah does not follow R' Akiva since he maintains that the husband would have to give a גט to his wife's sister and consequently would not be permitted to remain with his wife, since she is the sister of a woman whom he divorced with a גט.

It is demonstrated how the Mishnah could even be consistent with R' Akiva.

R' Ashi suggests to R' Kahanah that the Mishnah is inconsistent with R' Akiva for another reason.

R' Kahanah refutes R' Ashi's assertion.

The Gemara explains why the wife does not become prohibited to her husband when he has relations with her sister mistakenly thinking his wife had died. ■

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By Mr. and Mrs. Eric Rothner
In loving memory of their mother
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Distinctive INSIGHT

What is the *חידוש* of the Mishnah?

מותרת לחזור לו

The case of the *רישא* of the Mishnah is where a man's wife went abroad, and he was then told that she died. The man then married the sister of his former wife. The first wife then came back alive. The halacha is that the first wife may return and continue to be married to her husband. The "marriage" to the sister-in-law is null and void, to the extent that this man is even allowed to marry the relatives of the sister, which would be forbidden if the marriage was considered valid. For example, this man may marry the daughter of his wife's sister, and she is not considered to be the daughter of his wife, who is prohibited.

The Rishonim discuss the novelty of the statement of the Mishnah that upon her return the first wife may continue to be married to the husband. Tosafos (*ד"ה ואע"ג דאזיל*) explains that the *חידוש* is that the rules which apply to a husband and to a wife are different for when each remarried after being told that their spouse had died but then the spouse returned alive afterwards. The wife who remarried may not go back to her husband, as we learned at the beginning of the perek. The *חידוש* is that the husband who remarried may go back to his previous wife, even if he "married" his wife's sister in the meantime.

Aruch Laner notes that Tosafos holds that a man can only marry his wife's sister if the information about his wife's death is provided by two witnesses. Therefore, for the contrast of Tosafos to be accurate, this means that Tosafos understands that the earlier Mishnah holds that a woman who remarried based upon the testimony of two witnesses who testified that her husband died may still not go back to her husband if he returns alive. However, according to the opinion in the earlier Mishnah (87b) that holds that a woman who remarried based upon the testimony of two witnesses may return to her husband, and the case earlier when she may not return to her husband is dealing with a situation where she remarried based upon a single witness, the contrast to our Mishnah is no longer correct. After all, the husband himself cannot marry his wife's sister unless two witnesses testify that the wife died, and in the parallel case of two witnesses who testify to allow the woman to remarry also results in her being able to return to her husband if he returns alive.

Aruch Laner explains that according to Rashi (*ד"ה וגיטו*), the husband is allowed to marry his wife's sister even if only one witness comes to say that the wife died. According to this, the *חידוש* of our Mishnah comes to contrast our halacha to that of the earlier Mishnah. In both cases, the respective spouse remarries based upon the testimony of one witness. If the husband comes back alive (the *רישא*), the wife may not return to her husband. If the wife returns alive (the *סיפא*), the husband may take his previous wife back. ■

HALACHAH Highlight

Searching for a leniency to prevent a woman from becoming an agunah

תוס' ד"ה וליטעמיך סיפא דקתני. דשמא לא תמצא שדם שישאנה
Tosafos "perhaps she will not find someone [else] who will marry her.

Rav Mordechai Yaakov Breisch¹, the Chelkas Yaakov, addressed the issue of the effects prostate surgery will have on a man and whether it will render him into a **פצווע דכא**. The doctors, at the time, reported that most people who have this surgery become sterile and seemingly these men should therefore be prohibited to their wives. Chelkas Yaakov wrote that the question is very serious since many men have already had this surgery and issuing a stringent ruling would literally break up families. The reason is that if he were to become prohibited as a **פצווע דכא** the couple would not be allowed to be in seclusion with one another even if they wished to remain married. The reason a husband and wife are permitted to be in seclusion while she is a niddah is that the prohibition is only temporary but any time the prohibition is permanent, seclusion becomes prohibited even though they are husband and wife².

Chelkas Yaakov argues that one should seek leniencies in this case because prohibiting this man to his wife involves making her into an agunah and we find that Chazal went to great lengths to prevent women from becoming agunos. One could argue, notes Chelkas Yaakov, that since it is the husband who is prohibited to marry rather than his wife she should not be considered an agunah since she could find another husband

REVIEW and Remember

1. Is a woman believed to say that her sister died so that she could marry her husband?

2. What is **ריח הגט**?

3. Why did the Gemara assume that the Mishnah does not follow R' Akiva?

4. What is the punishment for having relations with one's mother-in-law after his wife died?

who is not a **פצווע דכא**. This assertion is not valid because one can infer from Tosafos³ that even if a woman becomes prohibited to only one man who is interested in marrying her we can consider it a case of a potential agunah since we do not know whether she will find another man who is interested in taking her as a wife.

His final conclusion on the matter was that one should not have prostate surgery unless, of course, it is necessary to save the patient's life or if there is even a possible danger. Furthermore, he ruled that those people who have the surgery out of necessity, do remain permitted to their wives and it is not necessary for them to divorce. ■

1. שו"ת חלקת יעקב אה"ע סי' כ"ט
2. ע' תוס' סוטה ז ד"ה נדה
3. תוס' הכא ד"ה וליטעמיך ■

STORIES Off the Daf

Pearls or shards?

הוה ליה לר' אלעזר למדרש ביה מרגניתא
ודרש ביה חספא

Once, Rav Isser Zalman Meltzer, ז"ל, was part of a group accompanying the Chofetz Chaim, ז"ל, on a train ride. In those days, people had a difficult time making a living and would try almost any method to make a small profit. Poor Jewish women would sometimes board trains to sell peanuts at a cheap rate. Such a woman approached the Chofetz Chaim, who bought some peanuts. Not surprisingly, the entire group with him followed suit.

After the woman left their compartment, the Chofetz Chaim commented, "Do you know how silk is manufactured? You take strands of silk and put them together to make threads. No normal person would take silk thread and unravel it until they are left with weak and fragile strands.

Similarly, if you bought peanuts to enable this poor woman to make a living, it is like taking separate strands and making strong and lasting silk thread from them. But if you meant solely to give yourself a moment's physical pleasure, you lost the opportunity to fulfill a precious mitzvah. You would be like the fool who unravels silk to its basic components and renders it unfit for real use!"

On today's daf we find that Rav

Elazar ben Masya should have expounded a pearl, but instead, he expounded shards. Similarly, with our every mundane action we can either weave the strands of our everyday actions into a brilliant spiritual garment by having the right intentions, or we might unravel our spirituality by focusing on our own selfish needs. For example, if while at work we consider that our real purpose is to fulfill the mitzvah of chessed by providing for our families and enabling ourselves to give charity to others, our mundane acts take on a spiritual character. Every physical act is potentially a spiritual pearl! It all depends upon our focus. Will our mundane actions be worthless shards or precious pearls? The choice is ours! ■

