

OVERVIEW of the Daf

1) MISHNAH: If a woman's husband and co-wife go overseas and the wife receives a report that her husband died she has to wait until she confirms whether the co-wife is pregnant. If the woman's mother-in-law also went overseas she does not have to be concerned that her mother-in-law is pregnant but there is a dispute concerning a case where the mother-in-law left for overseas pregnant.

2) Clarifying the Mishnah

The Gemara clarifies the phrase **היא צרחה**.

The Mishnah's ruling that the woman may not marry is challenged based on the fact that a majority of women become pregnant and give birth.

It is suggested that the Mishnah follows the position of R' Meir who is concerned for the minority.

A suggestion is offered to explain how the Mishnah could follow Rabanan.

The suggestion is rejected and it is declared that it is more logical to assume that the Mishnah follows R' Meir.

An unsuccessful challenge to the assumption that the Mishnah is R' Meir is presented.

3) A woman whose husband is reported dead

Zeiri and R' Chanina dispute how long a woman must wait to determine whether she or her co-wife are pregnant following a report of her husband's death. Zeiri maintains that she must wait three months for herself and nine months for her co-wife whereas R' Chanina maintains that she must wait forever for her co-wife.

The reason doing chalitzah as a stringency is not an option is explained.

The assertion that it is prohibited to perform a possible unnecessary chalitzah is challenged.

Two answers to this challenge are presented.

4) MISHNAH: The Mishnah presents halachos related to the wives of two brothers who return from overseas and report or have witness testimony that their husbands died.

5) Clarifying the Mishnah

A Baraisa adds an additional case not addressed by the Mishnah.

Rava inquires about the rationale underlying R' Elazar's opinion in the Mishnah. ■

Distinctive INSIGHT

A single witness who comes to say that the yavam died

שתי יבמות... לזו עדים ולזו אין עדים—את שיש לה עדים אסורה ואת שאין לה עדים מותרת

Earlier (93b), the Gemara discussed the issue of whether a single witness is believed regarding the death of a yavam in order to permit the yevama to marry at large (לשוק). The two sides of the issue were an analysis of why a single witness is ever believed to testify about the death of a woman's husband. Is a single witness credible because the death of a person abroad is something which will eventually become known, and a witness will not lie in cases involving facts which eventually become known? If this is the case regarding testimony about the woman's husband, it will also be true if he testifies about the death of the yavam. Or, is the trust of a single witness founded upon the awareness that the wife herself will only remarry if she is also certain that her husband is dead? The single witness is not believed on his own, but together with relying upon the wife's confidence, we allow her to remarry. If this is the case, then in reference to the yavam there is no added trust that the woman will not proceed unless she knows that the yavam died. So a single witness would not be trusted. The Gemara left this issue unresolved (תיקו).

Rambam (Yibum v'Chalitzah 3:5) and Rif rule that a single witness is believed to say that the yavam died, while Rosh rules that a single witness is not believed in this case.

The wording of our Mishnah seems to corroborate the opinion of Rosh. The Mishnah clearly presents a situation where testimony is available regarding the death of a yavam: "לזו עדים"—this one has witnesses..." We see that it is not one witness which is available, but rather two witnesses, as Rosh had said. Nevertheless, Rambam (ibid. Halacha 8) presents the halacha of this Mishnah, and he presents it in terms of one witness who comes, being consistent with his approach in Halacha 5. ■

REVIEW and Remember

1. Explain **רובא דאיתיה קמן**.
2. Why, according to R' Meir, do minors not perform yibum or chalitzah?
3. Why is there hesitancy for a woman to receive an unnecessary chalitzah?
4. Explain the dispute between Tanna Kamma and R' Elazar?

HALACHAH Highlight

Is the pregnant wife of a kohen permitted to enter a room with a corpse?

היתה לה חמות וכו' יצתה מלאה וכו' ר' יהושע אומר אינה חוששת
If she had a mother-in-law... who left for overseas pregnant... R' Yehoshua says that the daughter-in-law does not have to be concerned that her mother-in-law had a child

The reason for R' Yehoshua's ruling is that there is the possibility that the mother-in-law miscarried and even if she has a viable child it is possible that it will be female. This constitutes a double doubt (ספק ספיקא) that permits the daughter-in-law to marry without hesitation concerning an obligation for yibum¹. Rokeach², based on this principle ruled that the wife of a kohen who is pregnant is permitted to enter a room with a corpse. The fetus may or may not be viable and even if it is viable it may be female for whom the restriction against טומאה does not apply. For this reason the mother is permitted to be under the same roof as a corpse. Rav Avrohom Avli Gombiner³, the Magen Avrohom, questions why Rokeach invoked this principle when it should be permitted based on the principle that swallowed טומאה (טומאה does not transmit טומאה. Similarly, the fetus should be incapable of contracting טומאה while in the womb.

Radvaz⁴ suggested that the reasoning of Rokeach is necessary in a case where the mother is at the end of her preg-

nancy. Since the fetus' head may emerge, the fetus should be considered as if it has already emerged from the womb and thus able to contract טומאה. Therefore, it is necessary to invoke the principle of double doubt to permit the mother to enter into the room with the corpse.

Birkei Yosef⁵ argues that it is difficult to imagine that this was the intent of Rokeach, therefore he offers an alternative explanation. In the name of others he suggests that the principle that absorbed טומאה could not be applied in this case. Since halacha indicates that the fetus is considered part of the mother (עובר ירך אמו), once the mother enters the room with the corpse and becomes טמאה, the fetus should, by extension, also be טמא. Once it is established that the fetus could, in fact, become tamei while in the womb, it is necessary to invoke the principle of double doubt to permit the pregnant mother into the room with the fetus.

Mishnah Berurah⁶ rules that even when the due-date for the baby is near it is permitted for the mother to enter a room with a corpse because of the double doubt mentioned by Rokeach. ■

1. ע' רש"י ד"ה אינה חוששת
2. רוקח סי' שט"ו
3. מג"א סי' שמ"ג סק"ב
4. שו"ת הרדב"ז ח"א סי' ר'
5. ברכי יוסף שם סק"ד
6. משנה ברורה שם סק"ג ■

STORIES Off the Daf

Considering the minority

לימא ר"מ היא דחייש למיעוטא

When Rav Tzvi Hirsch of Zidichov, ז"ל, was a young man he was already known for his tremendous erudition and sharp intellect. Throughout his life he was ceaselessly working to bridge the gap between the Chassidim and their opponents. To this end, he met with countless Chassidic Rebbes as well as many leaders of the Misnagdim. He also met with two of the leading Gedolei Torah of his generation, Rav Yaakov Orenstein, ז"ל, and Rav Yaakov of Lissa, ז"ל, the author of the Ne-

sivos on Choshen Mishpat and many other seminal works.

Once, Rav Tzvi Hirsch took very ill. Because of the medical facilities in Lvov, the city was a place where many Rabbanim and Rebbes would travel seeking a cure. Rav Tzvi Hirsch's worried family rushed him to Lvov where they hoped that the many famous professors and physicians congregated in the city would be able to help him. However, it appeared as though their arrival in Lvov only precipitated Rav Tzvi Hirsch's dramatic deterioration; at a certain point, he was in a state of absolute gesisah. Everyone at his side knew that if he lived through the day it would clearly be a miracle.

Suddenly, the Rebbe commanded

those attending him to give tzedakah immediately to the kuppah of Rabbi Meir Baal HaNes. He explained, "The Gemara in Gittin 28a states that most goesim are slated to die. Only a minority of them recover. In Yevamos 119a we find that Rabbi Meir Baal HaNes is the one who takes account of, or is chosheish, the minority. Now we need to give in his merit so as to arouse a parallel aspect of Providence in heaven. Hashem will be chosheish for the minority who pull out of gesisah and I will recover!"

Shortly after they located such a pushkah and obeyed the Rebbe's order, Rav Tzvi Hirsch had a complete recovery! ■

