



## Daf In Review – Weekly Chazarah

### Maseches Yevamos, Daf לל – Daf טל

Daf In Review is being sent I'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H  
vI'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

#### -----Daf לל---33-----

- The Gemara says that the machlokes between **R' Chiya** and **Bar Kappara** in all 3 previously mentioned cases is actually a fundamental machlokes as to whether or not **R' Yose** holds that issur chal ahl issur by an issur kollel (a more inclusive issur). **R' Chiya** says that he does, and therefore in the 3 machlokes that were mentioned, since they are cases of issur kollel (as will be explained) we will say issur chal ahl issur, and that is why he is chayuv for 2. **Bar Kappara** says that **R' Yose** would say that only when there is issur mosef will we say issur chal ahl issur. Therefore, in the 3 cases he will only be chayuv for one.
  - **Q:** In the first case there is issur kollel, because the person was mutar to do work, but not the Avodah. When Shabbos comes, since it makes him assur to do work, it also takes effect on the Avodah as well. In the second case, the Kohen with a mum was allowed to eat korbanos, but not do the Avodah. When he becomes tamei, since he now also becomes assur to eat the Korbanos, the issur also takes effect on doing the Avodah as well. However, in the 3<sup>rd</sup> case there is no situation of issur kollel!? The issur for the non-Kohen to eat the meat and the issur neveilah that comes about through the melika, happen at exactly the same time (before the melika the bird is assur though me'ila, and this gets removed through the melika)!? **A:** The machlokes between **R' Chiya** and **Bar Kappara** is that **R' Chiya** holds that **R' Yose** would say one is chayuv for 2 when he does something which involves 2 issurim which took effect at the same time. **Bar Kappara** holds that **R' Yose** says the person would only be chayuv for one.
    - The first 2 cases can be said to involve issurim that took effect simultaneously, as follows. The first case is talking about a person who became an adult on Shabbos (he grew “shte saaros”), and therefore the issur of Shabbos and the issur for a non-Kohen to do the Avodah took effect at that time, simultaneously. The second case can either be talking about a case where the Kohen with a mum was tamei and became an adult, and again the 2 issurim therefore take effect simultaneously. The second case can also be talking about where a Kohen cut off his finger with a tamei knife, thus making him tamei and giving him a mum at the same time.
    - **Q:** **R' Chiya** and **Bar Kappara** both swore that they were repeating the view of **Rebbi**. Now, according to **R' Chiya**, we could now say that what he heard from **Rebbi**, that the person is chayuv for 2, was said according to the view of **R' Yose** in a case where the issurim took effect simultaneously, and what **Bar Kappara** heard from **Rebbi** was said according to **R' Shimon** who says (according to **R' Chiya**) that even in this case only one issur will take effect. However, according to **Bar Kappara**, who says that even **R' Yose** says that only one of the issurim will take effect when they happen simultaneously, what would he say that **R' Chiya** heard from **Rebbi**? Would he say that **R' Chiya** was lying!? **A:** It must be that they argued as follows. **R' Chiya** said that even **R' Shimon**, who never says issur chal ahl issur, even when there is issur mosif or issur kollel, will agree that issur chal ahl issur when they happen simultaneously. **Bar Kappara** said, that even in this case **R' Shimon** would say that we don't say that issur chal ahl issur.
    - **Q:** It would make sense why **R' Chiya** would feel it necessary to “swear”, because he was going against the accepted view that **R' Shimon** never says issur chal ahl issur. However, why would **Bar Kappara**, who was following the accepted view, feel the need to swear as well? This remains a KASHYEH.
    - **Q:** According to **Bar Kappara**, he could say that he heard from **Rebbi** the shita of **R' Shimon**, and **R' Chiya** heard the shita of **R' Yose**. However, according to **R' Chiya**, what could he say that **Bar Kappara** heard from **Rebbi**? Would he say that **Bar Kappara** was lying!? **A:** **R' Chiya** will say, that **Bar Kappara** heard from **Rebbi** that **R' Shimon** would say that only one issur takes effect in the

## Daf In Review – Weekly Chazarah

first two cases that they argued. Now the reason for that is because those cases (as stated earlier) can be understood as cases of issur kollel, in which case **R' Shimon** says only one would take effect. However, **Bar Kappara** misunderstood that, and thought that since the 3<sup>rd</sup> case is a case of simultaneous taking effect, the same is for the first 2 cases, and yet **Rebbi** said that **R' Shimon** says that only one takes effect. **R' Chiya** would say, it was this misunderstanding that caused **Bar Kappara** to make the mistake that he made.

- **Q:** A Braisa says, if a non-Kohen does the Avodah on Shabbos, and if a Kohen with a mum does the Avodah while tamei, **R' Yose** says he is chayuv for 2, and **R' Shimon** says he is only chayuv for one. Now, the Braisa does not mention the case of melika. Why not? It must be because in that case **R' Shimon** would agree that he is chayuv for 2, because they happened simultaneously (according to **R' Yose** it is obvious that he would chayuv for both in that case). We see from this Braisa that **R' Shimon** would agree that both issurim would take effect when they come about simultaneously. This is problematic according to **Bar Kappara**!? **A: TEYUFTA** of **Bar Kappara**.
- **Q:** The Braisa gives the case of a non-Kohen violating Shabbos by doing the Avodah, since he is not allowed to do the Avodah. What part of the Avodah did he do that caused him to violate Shabbos? If he did the shechita, he wouldn't violate Shabbos for that, because the shechita of a non-Kohen is valid!? If he did the kabbalah or the holacha, there is no issur Shabbos D'Oraisa in doing so. If he burned the korbon on the Mizbe'ach, **R' Yose** himself says that the act of burning is only a lav on Shabbos!? **A: R' Acha bar Yaakov** said, the case is where he shechted the korbon of the Kohen Gadol on Yom Kippur, and the Braisa follows the view that the shechita of that korbon is only valid when done by the Kohen Gadol.
  - **Q:** If so, why does the Braisa mention a non-Kohen? Even a Kohen other than the Kohen Gadol would violate Shabbos if he did this shechita!? **A:** The Braisa uses the term "zar" to refer to a regular Kohen as well.
  - **R' Ashi** said, the Braisa doesn't say that he will be chayuv for 2 chataos, or 2 lavim, it just says that he is chayuv for 2 violations. If so, it can be talking about any Avodah, even the carrying of the blood, which is assur D'Rabanan as muktzeh. The practical application of knowing how many issurim he has violated will be whether to bury this person among the complete resha'im.

### MISHNA

- If 2 men gave kiddushin to 2 women, and at the time of chuppah, they exchanged the women and each man ended up living with the woman of the other man, each man will be chayuv for living with an eishes ish. If they were brothers, they will also be chayuv for eishes ach. If the women were sisters they would also be chayuv for achos ishto. If they were niddos, they would also be chayuv for living with a niddah.
  - Before returning the women to their rightful husbands, we wait 3 months to see if they became pregnant from the other man. If they are young girls who cannot become pregnant, we return them to their husbands without waiting. If the girls are daughters of Kohanim, they become assur to eat terumah (to be explained in the Gemara).

### GEMARA

- **Q:** The Mishna says the women were "exchanged", which suggests that it was intentionally done. Are we dealing with resha'im here!? Also, **R' Chiya** says about this Mishna that there is a possibility for a total of 16 chataos having to be brought. Now, if we are talking about an intentional act, why would a chatas be brought!? **A: R' Yehuda** said, change the Mishna to read "they were exchanged" – meaning that it happened unintentionally. This makes sense based on the later part of the Mishna that says that if the wife is a young girl, she may be returned immediately. Now, if the znus was done intentionally, she would not be permitted to be returned.

## Daf In Review – Weekly Chazarah

- **Q:** That would not be a proof, because any znus of a minor is always considered to be rape, and a woman who is raped is always permitted back to her husband! **A:** The proof is from the fact that the Mishna suggests that if the women are not pregnant, we return them to their husbands. Now, if this was done intentionally, we would not return them to their husbands!

### -----Daf 77---34-----

- **Q:** The Mishna said that it is possible for each of the people to be chayuv for 4 aveiros. Now, the only way all of these issurim can take effect is if one says that issur chal ahl issur by issur kollel, issur mosef, and simultaneous issurim. Who is the shita that holds of all these methods? **A: R' Yehuda in the name of Rav** said, it is the shita of **R' Meir**, as we see in a Mishna where he says that a person can be chayuv for 6 issurim if he eats cheilev, of nossar, of kodashim, on Yom Kippur, which is also Shabbos, while tamei, and he walks out into the street with the food in his mouth. The only way that all these issurim can take effect is if one comes onto issur kollel, issur mosef, and simultaneous issurim.
  - **Q:** Who is **R' Meir** following in the Mishna? He can't be following the view of **R' Yehoshua**, because he says that if someone does an aveirah while attempting to do a mitzvah, he is patur (and the person in the Mishna was doing the mitzvah of getting married)? **A:** He must follow the view of **R' Eliezer**, who says that such a person would be chayuv. **A2:** We can even say that he follows **R' Yehoshua**. The only time **R' Yehoshua** says that someone is patur is when he was doing a mitzvah that required that he rush because of a time limitation (such as when performing a bris milah). However, in the case of our Mishna he would not say that the people are patur.
    - **Q:** We find a Mishna where **R' Yehoshua** says a person is patur if he eats terumah when he wasn't allowed to, since he was trying to do a mitzvah. There is no time limitations on eating terumah, and yet he says he is patur!? **A:** That Mishna is discussing a case of Erev Pesach, where the chametz terumah must be quickly eaten in the morning, before it becomes assur as chametz.
  - We can also say that our Mishna follows the view of **R' Shimon**, and the cases of our Mishna are where all issurim took effect at the same time, which is why even he says issur chal ahl issur.
    - **Q:** We can understand that the first 3 issurim could have happened simultaneously (which means that the 2 marriages happened simultaneously) if the 2 men made the same shaliach to give kiddushin for them, and the 2 women made a joint shaliach to accept the kiddushin for them. However, how can it be that the issur of nidah came about at the same time? **A: R' Amram in the name of Rav** said, the case is where the women had a continuous flow of blood from before the men turned 13 until after they turned 13, which was the same time that the girls turned 12. The kiddushin was then given and said to take effect at the time of their birthday. In this case, all 4 issurim came about at the same time.

### MAFRISHIM OSAN

- **Q:** A woman can't become pregnant from her first act of bi'ah, so what is our concern? **A: R' Nachman in the name of Rabbah bar Avuha** said, the Mishna is discussing where the men did multiple acts of bi'ah with the women.
  - **Q:** If so, there should be many more than a possible 16 chataos, because each act should be a separate series of chataos!? **A: R' Chiya**, who limited it to 16, was only referring to the first act of bi'ah.
  - **Q: Rava** asked **R' Nachman**, how can it be said that a woman can't become pregnant from a first act of bi'ah? We find that Tamar became pregnant with her first act!? **A:** He answered, that Tamar broke her "besulim" with her finger, so as to allow herself to become pregnant with her first act.
    - **Q:** What is the question – Tamar lived with Er and Onan before living with Yehuda!? **A:** They only lived with her in an unnatural way.
  - A Braisa says, **R' Yehuda** says, the word "osah" in the pasuk that says a woman becomes tamei from bi'ah, comes to exclude a bride after her first act of bi'ah. The **Chachomim** say that it comes to exclude bi'ah done in an unnatural way.

## Daf In Review – Weekly Chazarah

- **Q: Hon the son of R' Nachman** asked, does **R' Yehuda** hold as he does so as not to ruin the makeup of a bride (by not requiring her to go to the mikvah)? **A: R' Nachman** said, it is because she can't become pregnant from her first act, and therefore is not included in the pasuk.
- **Ravin in the name of R' Yochanan** said, if a widow waits 10 years before remarrying, she no longer has the ability to have children.
  - **R' Nachman** said, this is only if she never planned to remarry.

### -----Daf 77-----35-----

- **Shmuel** said, all women who were mezaneh and then want to marry, must wait 3 months before marrying, except for a girl who was converted as a minor and a maidservant who was freed as a minor.
  - This suggests that a Jewish minor must wait 3 months to marry after having been mezaneh. **Shmuel** can't be referring to a case where the minor did mi'un, because he clearly said that such a girl need not wait. He can't be referring to a girl who got divorced, because **Shmuel** already says elsewhere that such a girl must wait. He must be talking about a girl who was mezaneh, and the **Rabanan** were goizer that such a girl must wait (even though she can't become pregnant) for the case of an adult girl in the same situation.
    - **Q:** Our Mishna says that we are not goizer in the case of a minor (she need not wait)!? **A: R' Gidal in the name of Rav** said, the case of our Mishna is very uncommon, and therefore the **Rabanan** were not goizer there.
  - **Another version of Shmuel's** statement was that he said all girls must wait 3 months to get married except for a convert or freed maidservant who were adults.
    - This suggests that a Jewish minor would not have to wait 3 months. Based on other statements of **Shmuel** (as stated above) this must refer to a case where the minor was mezaneh (and not where she did mi'un or was divorced). The reason the **Rabanan** were not goizer in this case is because it is uncommon for a minor to be mezaneh.
    - **Q:** Why are we not goizer in the case of the convert or the freed slave, since znus is common there!? **A:** He holds like **R' Yose** who says that these women do not have to wait to get married. **Rabbah** explains, because they are careful to use contraception to prevent pregnancy. **Abaye** explains, even when she doesn't have an opportunity to use contraception, she turns her body over after the znus to prevent from becoming pregnant. **R' Yehuda**, who argues on **R' Yose**, holds that we make them wait, because we are concerned that this method may sometimes not be done properly and will fail to prevent pregnancy.

### V'IHM HAYU KOHANOS...

- **Q:** Why are only daughters of Kohanim disqualified? Even wives of Kohanim should be disqualified as well!? **A:** The Mishna should be changed to read "the wives of Kohanim".
  - **Q:** We have learned that **R' Amram** said that even the wives of Yisraelim become assur to a Kohanim in the future if they are raped when still married to the Yisrael!? **A: Rava** said, the Mishna should be understood as saying, if these girls were daughters of Kohanim, they may never go back there to eat terumah (even if they are widowed without any children, in which case such a girl may go back and eat terumah, this girl may not, because she is considered to have engaged in znus).

### HADRAN ALACH PEREK ARBA'AH ACHIN!!!

### PEREK HACHOLETZ L'YEVIMTO -- PEREK REVI'I

### MISHNA

- If one gave chalitzta and the yevama is then found to have been pregnant, if the child is born and is a viable child, the yavam is mutar to her relatives and she is mutar to his relatives and she is not passul to a Kohen (i.e. it is as if the chalitzta never took place). If the child is not a viable child, the yavam becomes assur to her relatives, she becomes assur to his relatives, and she becomes passul for a Kohen.

## Daf In Review – Weekly Chazarah

- If one did yibum and the yevama is found to have been pregnant, and the child is born and is a viable child, they must get divorced and must bring a chatas. If the child is not viable, they may remain married.
  - If it is uncertain whether the child is from the dead brother or from the yavam, he must divorce her, the child is not a mamzer, and they must bring an asham talui.

### GEMARA

- If one did chalitza with a yevama who was pregnant, and she then had a miscarriage, **R' Yochanan** says that she does not need another chalitza from the other brothers, because he holds that the chalitza and the bi'ah to a pregnant woman are considered valid (assuming she miscarries), and **Reish Laskish** says that she does (the chalitza and bi'ah to a pregnant woman is not considered to be valid).
  - **Q:** What is the basis of the machlokes? **A:** It may be based on logic, where **R' Yochanan** says, if we would have known in advance that the yevama would miscarry, she would definitely be subject to yibum and chalitza, so now that we find out after the yibum or chalitza, it is considered valid as well. **Reish Lakish** says that we don't say it is valid when we first find out later. It also may be based on the pasuk of "u'bein ein lo" – **R' Yochanan** says, he truly has no child at this time, and even later the child born was not viable, so the action was a valid action, and **Reish Lakish** says, the pasuk teaches "ayin lo" – examine into it and see if he left any children, which means that even a fetus invalidates the chalitza or the yibum and puts a hold on the halachos of yibum until it is clarified whether or not the dead brother has left a viable child.
  - **Q: R' Yochanan** asked, our Mishna says that if he gave her chalitza when she was pregnant and the child was born and was not viable, they are assur to each other's relatives and she is passul for a Kohen. It must be that the chalitza given during pregnancy was valid, otherwise she wouldn't be assur to a Kohen!? **A: Reish Lakish** said, it is actually only a chumra D'Rabanan that makes her assur to a Kohen.
    - **Q:** Others say that **Reish Laskish** asked from our Mishna and said that according to **R' Yochanan** the Mishna in the above case should have said that "she doesn't need chalitza from any of the brothers". The fact that it didn't say that must mean that the chalitza was not valid!? **A: R' Yochanan** said, in truth it should have said like you suggested. However, since the beginning of the Mishna says "she is not passul to a Kohen", this part of the Mishna wants to end by saying "she is passul to a Kohen".
  - **Q: R' Yochanan** asked, our Mishna says, if he did yibum and the child is then found to be not viable, he may remain married to the yevama. Now, according to me, since the yibum was valid when she was pregnant, he "may remain married to her". However, according to **Reish Lakish**, who says the yibum done during pregnancy is not valid, the Mishna should have said "he has bi'ah with her again and then may keep her as his wife"! **A: Reish Lakish** said, the Mishna means to say that he should have bi'ah with her again and then may remain married to her.
    - Others say that **Reish Lakish** asked from this part of our Mishna, that it suggests that in this case he must have bi'ah with her again and then may keep her as a wife. However, according to **R' Yochanan**, it should have said that he may keep her or get rid of her!? **R' Yochanan** answered, in truth it should have said like you suggested. However, since the beginning of the Mishna says "he must divorce her", the Mishna wanted to be consistent and end with "and he may keep her".
  - **Q:** A Braisa says, if yibum was done and the yevama was found to be pregnant, the tzara may not yet marry, because maybe the child will be viable. Now, this clearly can't be correct, because if the child is viable the tzara may certainly marry (she is not subject to yibum)! The Braisa must mean that we are concerned that the child will not be viable, in which case the tzara is only freed with the bi'ah done to the yevama. Now according to **R' Yochanan**, as soon as the bi'ah was done, the tzara should be allowed to marry, because the bi'ah to a pregnant woman is a valid bi'ah of yibum!? **A: Abaye** said, it must be that **R' Yochanan** agrees that the bi'ah to a pregnant woman will not be valid for yibum. The machlokes with **Reish Lakish** is only regarding the chalitza done to a pregnant woman while she is pregnant – **R' Yochanan** says it is valid and **Reish Lakish** says it is not valid.

## Daf In Review – Weekly Chazarah

- **Q: Rava** asked, this can't be right, because we know that chalitza is only valid when yibum would have been valid, so **R' Yochanan** could not make this distinction!?! **A: Rava** therefore says, the Braisa means to say that if a yavam had bi'ah with a pregnant yevama, the tzara may not get married, because the child may turn out to be a viable child, in which case even **R' Yochanan** would agree that the yibum or chalitza done during the pregnancy is not valid, and the tzara would therefore not be allowed to marry until the child is actually born. A Braisa says like **Rava** as well.
  - **Q:** This Braisa that says like **Rava** is problematic according to **Reish Lakish**, because it suggests that the bi'ah done to the pregnant woman would allow the tzara to get married if the child turns out not to be viable!?! **A: Reish Lakish** would explain the Braisa to mean that she may not get married because maybe the child is not viable, and the bi'ah done during the pregnancy is not valid. Even though most women have viable children, even a viable child does not allow the tzara to get married until the child is actually born.

### -----Daf 17-----36-----

- **R' Elazar** said, it can't be that the **Rabanan** have accepted the view of **Reish Lakish** unless it was also taught in a Mishna. He searched and found a Mishna that says, if a woman's husband and tzara travelled overseas, and she is then told that her husband has died, this woman may not marry or do yibum until she finds out that her tzara was not pregnant. Now, it is understandable why she can't do yibum, because we must be concerned that the tzara will have a viable child, which would make this woman assur to her husband's brother. However, why can't she do chalitza and then wait for 9 months to pass, in which case either the chalitza was good, or there was a viable child!?! It must be that the Mishna holds that a chalitza done during the pregnancy is not a valid chalitza.
  - The reason for this Mishna is not because it follows the view of **Reish Lakish**, because if that was its reason, it should say that she could do chalitza after 9 months and get married then (because the chalitza done then was surely after any possible baby was born). Since this suggestion is not given, it must be that the reason is like **Abaye bar Avin** and **R' Chinina bar Avin**, that we don't want her to get a chalitza (which would pasul her to a Kohen) and then find out that the tzara had a viable child (which means that the woman is truly mutar to a Kohen), in which case we will have to announce that she is truly mutar to a Kohen. We don't want to rely on such announcements, because a person may have been present at the chalitza and not at the announcement, and he will come to think that they allowed a chalutza to marry a Kohen.
  - **Abaye** said, the Mishna only says that she "cannot marry or do yibum", which can be understood as meaning she may not marry without first doing chalitza, but if chalitza is done it would be okay for her to marry. If so, this Mishna does not even follow the view of **Reish Lakish** at all.
  - A Braisa says like **Reish Lakish**. The Braisa says, if a pregnant woman gets chalitza and then miscarries, she needs another chalitza.
  - **Rava** said, the Halacha follows **Reish Lakish** in 3 matters:
    - That a chalitza or yibum done to a pregnant woman is not a valid chalitza or yibum.
    - That, when dividing one's estate in a way other than how the Torah says that inheritance is given, the father must state that he is giving the portion as a gift to each of the people he is giving to.
    - That, when a father says his fields should go to his son after his death, and the son then sells his rights in the field, and then the son dies before the father, the buyer acquires the field when the father dies, because the father's current rights to the produce of the field do not give him full rights to ownership of the field (since he had given that to his son).

EIN HAVLAD SHEL KAYAMA...

- A Braisa says, **R' Eliezer** says, even in this case he must divorce her.

## Daf In Review – Weekly Chazarah

- **Rava** said, that **R' Meir** and **R' Eliezer** share the same view, because **R' Meir** says that if one married a woman who was pregnant or nursing (which is not supposed to be done), he must divorce her forever.
  - **Abaye** said, this is not a valid proof that they share the same view. It may be that **R' Eliezer** would agree with the **Rabanan** who argue on **R' Meir** and say that they must separate for the time being and can get back together when the baby is 24 months old, because it may be that **R' Eliezer** is only machmir in the case of a D'Oraisa. Also, it may be that **R' Meir** is only machmir in a case of a D'Rabanan, since we have to be strong so that people stay away from the D'Rabanan.
  - **Rava** said, the **Rabanan** mean that he must give her a get, but may take her back later on. **Mar Zutra** said, we can prove this from the Mishna's use of the word "yotzi" instead of "yafrish" (separate).
  - **Q: R' Ashi** asked **R' Hoshaya the son of R' Idi**, a Braisa says that **R' Shimon ben Gamliel** says, if a child lives 30 days it is considered to be a viable child. This suggests that anything less than that is a safek. We have learned that in a case where the only baby of a man who has died, lived less than 30 days, and the widow went and married someone else without chalitza, there is a view that if the man she married is a Kohen, we do not require her to get chalitza now, because that would force her to have to divorce her husband (who, as a Kohen, may not marry a chalutza). **R' Ashi** asked, in the case where one married a pregnant or nursing woman, would we also be meikel if the man was a Kohen? **A: R' Hoshaya** said, in the case of the chalitza, since the **Rabanan** argue on **R' Shimon ben Gamliel**, and say that the child is viable even if it does not make it to 30 days, we can rely on the **Rabanan** to be meikel and not require her to get chalitza. However, in the case of marrying the pregnant woman, all shitos say that she must get divorced. Therefore, there is no one to rely on in order to be meikel.
- We have learned, if one gave kiddushin to a woman within 3 months of her becoming a widow or getting divorced (which is not allowed, and we would force them to get divorced), but the man then runs away, **R' Acha and Rafram** argue: one says we put the man in cheirem until he gives the get, and the other says, his running away is enough, because it shows that he does not intend to live with this woman until her 3 months have passed.
  - It once happened that such a story took place, and **Rafram** said that his running away sufficed, and a get was not necessary.

### -----Daf 17-----37-----

#### SAFEK BEN TISH'AH...

- **Q: Rava** asked **R' Nachman**, why do we consider this to be a safek?? We should say that we follow the rov, and most women give birth after 9 months, meaning that we should say with certainty that this child's father is the dead brother (in which case a chatas should be brought)!? **A: R' Nachman** said, the women of his locale would give birth after 7 months.
  - **Q: Rava** asked, the women of your locale are not the majority of the world!? **A: R' Nachman** explained, that he meant to say, that rov women give birth after 9 months. All women who give birth after 9 months begin showing signs of pregnancy after 3 months. Since this woman did not begin showing after 3 months, her status in the rov is weakened, and we consider it as a safek.
  - **Q: If "all" women who give birth after 9 months begin showing after 3 months, and this woman did not, it must mean that she is giving birth after 7 months, and the father is the live brother!? A: R' Nachman** meant that "most" women who give birth after 9 months begin showing after 3 months. Since this woman did not begin showing after 3 months, her status in the rov is weakened, and we therefore consider the father of the baby to be a safek.
- A Braisa says, the first child of this yavam and yevama (who had the child 7 months after the yibum, which was 9 months after the death), is fit to be a Kohen Gadol (he is certainly untainted, because he is either of the dead brother or he is of the live brother, which would mean that yibum was totally appropriate). If they have a second child, this second child is a safek mamzer (if the first child was truly of the dead brother, the yevama is assur to

## Daf In Review – Weekly Chazarah

the yavam with a kares penalty, thus making any child they produce, to be a mamzer). **R' Eliezer ben Yaakov** says, he is not a safek mamzer.

- **Q:** What does **R' Eliezer ben Yaakov** mean? Clearly he is a safek mamzer!!? **A: Abaye** explained, the Braisa said that the second child is a safek mamzer, who could not marry a mamzeres. **R' Eliezer ben Yaakov** said, he is considered to be a full mamzer (not a safek mamzer), and may even marry a mamzeres. **Rava** explained, the **T"K** meant to say that the second child is considered to be a full mamzer and may therefore marry a mamzeres, and **R' Eliezer ben Yaakov** argued and said that he is only a safek, and therefore may not marry a mamzeres.
  - The machlokes between **Abaye** and **Rava** is as follows. We know the Halacha always follows the view of **R' Eliezer ben Yaakov**. Therefore, **Abaye** and **Rava** each explain **R' Eliezer ben Yaakov** according to the way that they believe the Halacha to be (since his view is clearly the way the Halacha will follow).
    - **Abaye** says, his understanding of **R' Eliezer ben Yaakov** is correct, because we find a Braisa where **R' Eliezer ben Yaakov** refers to cases of possible mamzeirus as “zimah”, which is a term that means definite mamzeirem. **Rava** says the word “zima” means “zu mah hee” (“what is this” – a term appropriate for questionable mamzeirus).
  - **R' Eliezer ben Yaakov** also said, a person should not have a wife in one place, and another wife in a distant place, because the children of these marriages may end up not knowing each other, and may end up marrying each other, not realizing that they are siblings.
    - **Q:** We find that **Rav** and **R' Nachman** would marry a woman for the day that they were in a distant land!? **A:** There is no concern where the father is such a prestigious person, because the children are known by their relationship to their father.
      - **Q:** How could they have married a woman for a day? **Rava** says that a woman is considered to become a nidah after receiving a marriage proposal, and would therefore be tamei for 7 days!? **A:** They would send a shaliach 7 days in advance to arrange for the marriage. **A2:** These **Rabanan** would not have tashmish with these women, they would only seclude with them. That alone would be enough to prevent them from any concern of sin.
      - **R' Eliezer ben Yaakov** says based on a pasuk, a person should not marry a woman with the intent to divorce her.
- If the “safek child” (born 9 months after the death of the brother, and 7 months after the yibum, and we are therefore uncertain if he is the son of the dead brother or the son of the yavam) claims that he is the son of the dead brother and should therefore inherit all the possessions, and the yavam claims that the safek child is his son and therefore should get nothing, the Halacha will be that the money must be divided.
  - If the safek and the sons of the yavam each lay claim to the possessions of the first brother that died, where the safek says “I am his son and get it all” and the sons of the yavam tell him “You are our brother and inherit only a portion along with us”, the **Rabanan** in front of **R' Mesharshiya** thought to say, this would be the same as the case in the Mishna regarding a son that may be the son of a previous husband or of a later husband, and each of those husbands have other sons. In that case, he can never inherit with those sons, because they can always say that he is truly the son of the other man. However, when he himself dies, the sons of both men would split his possessions. However, **R' Mesharshiya** told them, the case of that Mishna would be similar to the case where the safek and the other sons of the yavam come to split the yavam’s possessions. In that case the other sons can tell him “You are the son of the other brother and have no rights here”.
  - If the safek and the sons of the yavam each make claim to inherit the possessions of the yavam after the yavam had already taken an inheritance from the dead brother, and the sons tell the safek, “You are the son of the dead brother and have no rights here”, and the safek says to them, “If I am the son of that brother, then give me back the inheritance that your father took from that brother, and if I am your brother, then I share the estate with you!”, the Halacha will be as follows. **R' Abba in the name of Rav**

## Daf In Review – Weekly Chazarah

says, we do not reopen the previous case he had with the yavam, and the sons can now push him away. **R' Yirmiya** says we do reopen the original case, and he must get the status of one or the other.

- **Q:** Maybe we can say that **R' Abba** and **R' Yirmiya** argue in the machlokes of **Admon** and the **Rabanan** of a Mishna. The Mishna says, if an owner of a landlocked field went overseas and when he came back, the path leading to his field was gone, and he does not remember where the path used to be, if the 4 surrounding fields were initially owned by 4 different people and now are all owned by one person, **Admon** says, he may use a path using the shortest route from the reshus harabim, since the path that was lost was somewhere in this new owner's property. The **Rabanan** say he must buy a path from the surrounding field owner, because the surrounding fields owner can tell him, if you want to pay me that is fine, but if you will try to force me to give you a path, I will give the fields back to the original owners, and you will be left helpless, because each owner will push you off onto another owner. Maybe we can say that **R' Abba** holds like the **Rabanan**, that the path has been lost and we don't reopen that case, just as **R' Abba** says that we don't reopen the case, and maybe **R' Yirmiya** holds like **Admon**, who says that we do reopen the case? **A:** **R' Abba** can even hold like **Admon**. He would say that **Admon** only says like he does in that case, because in either case the path was in a field which is currently owned by this one person, so the landlocked owner has a definite claim. However, in the case of the safek's inheritance, it is not certain that he has a claim in each case alone, only when they are combined together, and therefore it is different. Also, **R' Yirmiya** can even hold like the **Rabanan**. In that case the **Rabanan** hold that way, because the field owner can tell the landlocked owner, if you stay quiet, fine. If not, I will return all 4 fields to the original owners. However, in the case of the safek child, there is no such claim that can be made, and they therefore may agree that we would reopen the case.

### -----Daf פ"ל-----38-----

- If the safek and the yavam argue about splitting the estate of the yavam's father, and the safek says that he is the son of the dead brother and therefore should be entitled to the dead brother's full share, and the yavam says that the safek is his son, and therefore should get no share of the estate, in this case the yavam is coming with a certain claim and the safek has a questionable claim. Therefore, the safek gets nothing ("ein safek motzi midei vadai").
- If the safek and the yavam's 2 sons argue about splitting the estate of the yavam's father, and the safek says that he is the son of the dead brother and therefore should be entitled to the dead brother's full share, and the yavam's sons say that the safek is their brother and therefore must share along with them, in this case, since the safek agrees that the 2 sons deserve half of the estate, they get that half. Since the sons agree that the safek is entitled to 1/3 of the estate, he gets the 1/3. What remains is 1/6, and that 1/6 is split among them all.
- If the dead brother's father and the yavam argue over the estate of the safek (who had died), or if the dead brother's father and the safek argue over the estate of the yavam, since each party is based on a safek as to who the father of the safek is, the parties to this dispute must divide the estate.

#### MISHNA

- If a shomeres yavam (a widow waiting for her brother in law to give chalitzah or yibum) inherits property from her father, **B"S** and **B"H** would both agree that she may sell it or gift it, and the transfer is valid.
  - If she dies while waiting, what happens to her kesubah and to her "nichsei melug" (possessions to which she owns title, but which her husband had rights to use for income, regarding which she takes these properties with her when her marriage is terminated)? **B"S** say, the husband (the yavam) and the woman's father (or his heirs) divide her estate. **B"H** say that the assets stay with those in possession – meaning the kesubah goes to the yavam and the nichsei melug go to the woman's father.
  - Once the yavam marries her, she is treated as a full-fledged wife, except that the kesubah obligation remains with the first husband.

## Daf In Review – Weekly Chazarah

### GEMARA

- **Q:** Why do they not argue in the first case of the Mishna as well? **A: Ulla** said, the first part of the Mishna is discussing where she fell to yibum from being an arusah and the later part of the Mishna is discussing where she fell to yibum from being a nesuah, and **Ulla** holds that the zikah from being an arusah gives her the status of a safek arusah, and a zikah from being a nesuah gives her the status of a safek nesuah. This must be the case, because we find that **B”H** say that an arusah may not l’chatchila sell possessions that she has gotten while an arusah, so if she would be considered a full arusah in the case of the Mishna, they would not agree that she may sell the possessions l’chatchila. We also find that **B”S** say that a woman may not give away the possessions once she is a nesuah, so they would not agree that the yavam and the father share the possessions. We see that the zika in each situation only gives her the status of a safek in that situation.
  - **Q: Rabbah** asked, if this is correct, why does the Mishna need to present a case where she died, and then have **B”S** say that the best way to deal with the possessions is to have her split them, why can’t the Mishna give the case of where she is alive, and say that she splits the produce/income of the asset with her husband (since she is a safek nesuah)? **A: Rabbah** therefore says, both cases are we she fell to yibum as a nesuah, and as **Ulla** said, the zika gives her the status of a safek nesuah. The difference between the cases is, that in the first case where she is alive, she has a certain claim and the yavam only has a questionable claim, and therefore she gets to keep the assets (ein safek motzi midei vadai). However, in the later case where she died, we have 2 groups who are coming to inherit her, each with equally valid claims, and therefore we must divide the estate.
    - **Q: Abaye** asked, we find that **B”S** say that a safek does take from a vadai! A Mishna says, if a father and one of his sons were killed together, and the son owed money, and the creditors say that the father died first and the son then inherited him and they can therefore collect from the father’s estate, but the other inheritors say that the son died first, and therefore the son never got the money, **B”S** say they must split the amount that is owed, even though the other inheritors are a vadai and the creditors are a safek!? **A: B”S** hold that when one has a debt document, it is considered as if it is collected already (meaning that it is considered to be somewhat in his possession already), and he therefore comes with as strong of a claim as the other inheritors.
      - We see that **B”S** hold this way, because they say in a Mishna, that if the husband of a sotah died before she drank the water, she may get her kesubah. Now, she is a safek (since we don’t know if she was mezaneh) and yet she takes her kesubah from the vadai of the husband’s estate. We see that **B”S** hold that a debt document is considered as already collected to some degree.
      - **Q:** Why didn’t **Abaye** ask his question from this Mishna? **A:** We would say that kesubah is different, and the **Rabanan** allow for easy collection, so that women should want to get married.
      - **Q:** Why didn’t he ask from the case of kesubah in our Mishna, where the father takes half the amount even though he is only a safek, and this can’t be so that women should get married, because the woman is not the one who is collecting here!? **A: B”S** actually do not argue in regard to the kesubah, and hold that the father will not get any of it. When he says that they divide it, he is referring only to the nichsei melug.
        - Although the Mishna seems to say that **B”S** was giving his view on the kesubah as well, he was actually only giving his view with regard to the nichsei melug. **R’ Ashi** says, this is even suggested in the words of the Mishna that say that the yavam splits it with the father (and doesn’t say that the father splits it with the yavam), which suggests that we are discussing something that the father should really keep, and the yavam is coming and taking half. This must refer to the nichsei melug only.

## Daf In Review – Weekly Chazarah

- **Abaye** said, the first part of the Mishna is discussing where the assets fell to her while she was a shomeres yavam. The later part of the Mishna is discussing where the assets had fallen to her while she was still married (and since the husband had rights to these assets, the yavam does as well, although to a lesser degree since it is only based on a zikah). **Abaye** holds that the husband and the wife are like equal owners in nichsei melug.
- **Rava** said, property that a wife inherits while married is considered to be more strongly owned by the husband than by her. Therefore, he says that both cases of the Mishna are discussing assets that fell to her while she was a shomeres yavam. The first part of the Mishna is discussing where no maamer was done, and the later part of the Mishna is discussing where maamer was done. **Rava** holds that maamer according to **B"Y** accomplishes to create a vadai arusah (she makes the tzara patur from yibum) and a safek nesuah (her inheritors must split her estate with the yavam).
  - We find that **R' Elazar** said like **Rava** and that **R' Yose bar Chanina** said like **Abaye**.
  - **R' Pappa** said, the words of the Mishna suggest as **Abaye** said. The Mishna talks of the assets that "came in and went out with her". That suggests that she inherited the assets while she was still married. This is what **Abaye** said, but not what **Rava** said. However, it is problematic according to **Abaye** as to why the Mishna had to give the case of when she died, instead of just giving the case of when she is alive and must now divide the produce of the assets with the yavam.

### -----Daf טז-----39-----

#### KENASA HAREI HEE...

- **Q:** Regarding what Halacha was this said? **A: R' Yose bar Chanina** said, this is teaching us that to terminate their relationship at this point, he would need to give her a get, and that he may take her back after the divorce (as is the case with any other wife).
  - **Q:** It seems obvious that she needs a get at that point!? **A:** The pasuk refers to her as a yevama even after the yibum. We would think that this teaches that she needs chalitza even then.
  - **Q:** It seems obvious that he can take her back after divorcing her!? **A:** We would think that they may get married for the mitzvah, but once the marriage is over she reverts to being assur as an eishes ach. The pasuk teaches that from the time of the marriage she is treated as a normal wife.

#### U'BILVAD SHETIHEY KESUBASAH...

- The reason he is not responsible for the kesubah is because he did not ask for this wife, this wife was given to him from Heaven. However, if the first husband did not leave assets from which she could collect her kesubah, we make the yavam give her a kesubah so that he not feel the ability to divorce her without consequence.

#### MISHNA

- The mitzvah is for the oldest brother to do yibum. If he does not want to, we move successively down the line of brothers. If no brother wants to do yibum, we go back to oldest brother and tell him that he must either do yibum or chalitza.
- If the brother says to wait for a minor brother to become an adult and do yibum, or to wait for the oldest brother to come back from overseas, or to wait for the brother to become healed from being deaf or a shoteh, we do not listen to him. Rather, we tell him that he must decide to do yibum or chalitza.

#### GEMARA

- If we are faced with the choice of having the oldest brother do chalitza, or a younger brother doing yibum, there is a machlokes between **R' Yochanan** and **R' Yehoshua ben Levi**: one says the yibum of the younger brother takes precedence (since the preferred mitzvah is to do yibum) and the other says that the chalitza of the older brother takes precedence (because the yibum of a younger brother when there is an older brother, is like nothing).

## Daf In Review – Weekly Chazarah

- **Q:** Our Mishna says, if the oldest brother does not want to do the mitzvah, we move on to the other brothers. Presumably this means that the oldest brother does not want to do yibum, but would do chalitza, and we see that we rather have a younger brother do yibum!? **A:** The Mishna means that the oldest brother does not want to do yibum or chalitza.
  - **Q:** If so, when the Mishna says that if no brother wants to do it, we go back to the oldest brother. Presumably that means that no brother wants to do yibum or chalitza. If so, why do we force the oldest brother? Why not force any of the other brothers? **A:** Since the preferred mitzvah is on the oldest brother, we force him to do it.
- **Q:** Our Mishna says, if the brother says to wait for a minor brother to become an adult and do yibum, we don't listen to him. Now, if the yibum of a younger brother is preferred over the chalitza of the older brother, why don't we listen to him? **A:** We don't want to delay the performance of a mitzvah. This is the same reason that we don't wait for the oldest brother to come back from an overseas travel.
- **Others** say, that they both agree that the yibum of a younger brother is preferred over the chalitza of the oldest brother. The machlokes is regarding the chalitza of the oldest brother and the chalitza of a younger brother. One says that the chalitza of the oldest brother is preferred (the preferred mitzvah is always with the oldest brother), and the other says that they are equal (the preferred mitzvah is with the oldest brother only when discussing yibum).
  - **Q:** The Mishna says that if no brother wants to do it (presumably yibum), we go back to the oldest brother (for chalitza), which shows that the preferred mitzvah of chalitza is also with the oldest brother!? **A:** The Mishna is discussing where no brother wants to do chalitza or yibum, and the reason we go back to the oldest brother is because the preferred mitzvah (at least with regard to yibum) is for it to be done by him.
  - **Q:** The Mishna said that we don't listen to the brothers who say that we should wait for the oldest brother to come back from overseas. Now, if his chalitza is preferred, why shouldn't we wait? **A:** We do not delay the performance of a mitzvah.
- A Mishna says, yibum is preferred over chalitza, however that is only in the earlier days, when people would do yibum for the sake of the mitzvah. In today's times, when people don't have in mind purely for the mitzvah, the **Rabanan** have said that chalitza is preferred over yibum.
  - **Rav** said, still, we do not force someone to choose chalitza over yibum. When a yavam and yevama would come to **Rav**, he would tell them that the choice is theirs.
    - **R' Yehuda** holds this way as well. We can see this from the fact that he would write a chalitza document describing the events and in it would state that they chose not to do yibum.
  - **Rami bar Chama in the name of R' Yitzchak** said, the **Rabanan** later went back to saying that yibum is preferred over chalitza.
    - **Q: R' Nachman bar Yitzchak** asked, do you mean to say that the generations have gotten better!? **A:** What happened is, initially the **Rabanan** held like **Abba Shaul**, who says that one who does yibum for other than the sake of the mitzvah is considered to have lived with an ervah. Later, they decided to hold like the **Chachomim**, who said that even if not done for the mitzvah, the mitzvah has still been performed.
    - **Q:** A Braisa says, the pasuk of "yevama yavo aleha" teaches that the yevama is mutar to the yavam as a mitzvah. Who does this Braisa follow? **A: R' Yitzchak bar Avdimi** said, this follows **Abba Shaul**, and the Braisa is teaching that she only becomes mutar if the yibum is done for the sake of the mitzvah. **Rava** said, the Braisa may even be following the **Rabanan**, and the Braisa could be teaching that yibum is the preferred form of the mitzvah (as opposed to chalitzah).
      - **Q:** Earlier in the Braisa it says, the pasuk of "matzos tei'acheil bimakom kadosh" teaches that the korbon mincha should be eaten, as a mitzvah. This makes sense according to the understanding of **Rava**, because this would be teaching that it is a mitzvah for the Kohen who brought the korbon to eat the korbon. However, according to **R' Yitzchak**, what is the other choice that the pasuk is teaching should not be done? **A:** It teaches

## **Daf In Review – Weekly Chazarah**

that the korbah must be eaten as matzah, and not as chametz, and even not as “scalded bread” (where boiling water was poured on it).