



Daf In Review – Weekly Chazarah

Maseches Yevamos, Daf טז – Daf יז

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

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EIN LAH KESUBAH

- The reason for this is, the whole purpose of a kesubah is to prevent divorce from taking place easily. Here, we want them to get divorced, so there is no reason for the kesubah.

EIN LAH PEIROS V'LO MEZONOS V'LO BELAOS

- These items are a stipulation of the kesubah, and since she does not get her kesubah, she does not get the stipulations of the kesubah either.

NATLA MIZEH U'MIZEH

- **Q:** It seems obvious that she must return what she took!? **A:** We would think that once it is in her possession she need not return it. The Mishna teaches that she must return it even then.

HAVLAD MAMZER

- A Mishna says that one may not separate terumah from tamei produce for tahor produce. If one does so b'shogeg, it is a valid terumah. If one does so b'meizid, it is as if he did nothing.
 - **Q:** What is meant by "it is as if he did nothing"? **A:** **R' Chisda** said, nothing at all is accomplished, and even the produce separated as terumah reverts to its tavel status. **R' Nosson the son of R' Oshaya** said, it means that he needs to separate terumah again, however the produce that was separated as terumah retains its terumah status.
 - **R' Chisda** doesn't hold like **R' Nosson**, because if we say the separated terumah retains its status, then people will not separate terumah for a second time.
 - **Q:** A Mishna says that one who separates produce as terumah and it turns out to be spoiled, it is considered terumah, but he must again separate terumah. This is problematic according to **R' Chisda**!? **A:** In this Mishna he is a shogeg, whereas in the last Mishna it was discussing where he did it b'meizid.
 - **Q:** The first quoted Mishna said that for a shogeg he does not have to separate terumah again!? **A:** In this second Mishna he is a shogeg which is bordering on being a meizid, because he should have tasted the produce before separating it as terumah. That is why he must separate again.
 - **Q:** A Mishna says that when one gives terumah from an unperforated flower pot for produce of a perforated flower pot and it is done b'meizid, it is considered terumah, but he must separate terumah again. This is not like **R' Chisda** who said it is as if he did nothing at all!? **A:** Since there are 2 separate pots here, people will not fail to separate the terumah a second time.
 - **Q:** A Mishna says that when one separates from a perforated pot for a non-perforated pot, the Kohen may not use that terumah until he separates terumah and maaser (from someplace else) for the terumah that was taken for the non-perforated pot. If so, how does **R' Nosson** say that when done b'meizid the terumah is considered terumah, which would mean that the Kohen may use it immediately? **A:** In the case of the tamei terumah, D'Oraisa it is a good separation of terumah, as stated by **R' Illai**.
 - **Q:** **Rabbah** asked **R' Chisda**, according to you, although D'Oraisa the separated produce has the status of terumah, the **Rabanan** decided that due to the concern mentioned above, the produce loses its terumah status. How do the **Rabanan** have the right to uproot something from the Torah!? **A:** **R' Chisda** said, our Mishna says that the child from the first husband is a mamzer. Now D'Oraisa she is his wife, so the child is not a mamzer, and yet the **Rabanan** said that the child is a mamzer, which then allows him to marry a mamzeres!?

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- **Q: Rabbah** said, **Shmuel** and **R' Yochanan** both say that the child would be assur to a mamzeres. The **Rabanan** were only goizer that the child would be assur to a regular Jewess.
- **R' Chisda** sent to **Rabbah**, we find that the **Rabanan** can uproot something from the Torah, because the **Rabanan** have said that a man who married a minor who has no father (in which case the marriage is only D'Rabanan), inherits his wife at some point. Now, D'Oraisa this girl's father should inherit her, and yet we see that the **Rabanan** said that the husband inherits her!
 - **Rabbah** said, this is no proof, because the **Rabanan** could do that based on the concept (learned from a pasuk) that Beis Din may deem any property as hefker, and they therefore may make such decisions on monetary matters.
- **R' Chisda** said, the **Rabanan** also said that the husband who is a Kohen can make himself tamei to this minor wife if she dies. We see that **Rabanan** can uproot something that is stated in the Torah!
 - **Rabbah** said, the reason he can become tamei to her is that he may do so even D'Oraisa, because since he is the only one who inherits her, no one else will bother with her burial and she therefore gets the status of a "mes mitzvah", to whom a Kohen may make himself tamei.
- **R' Chisda** said, the **Rabanan** also allow her to eat terumah based on this D'Rabanan marriage. We see that **Rabanan** can uproot something that is stated in the Torah!
 - **Rabbah** said, this permission was only given for D'Rabanan terumah.

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- **R' Chisda** said, we see that the **Rabanan** have the ability to uproot something from the Torah from the following Braisa. The Braisa says, if a non-Kohen ate tamei terumah by mistake, he must pay back the Kohen in the form of chullin that is tahor. If he pays back with chullin that is tamei, **Sumchos in the name of R' Meir** says, if it was done b'shogeg, it is considered a good repayment. If it was done b'meizid, it is not a valid repayment. Now, D'Oraisa this is a valid repayment, to the point that if the Kohen were to take this tamei chullin and give it to a woman as kiddushin, it would create a marriage D'Oraisa, and yet the **Rabanan** say it is not a valid repayment and would say the kiddushin would not be valid!
 - **Rabbah** said, **R' Meir** means that the tamei chullin remains a valid payment in that it becomes terumah and belongs to the Kohen, but the non-Kohen must then give another repayment in the form of tahor chullin.
- **R' Chisda** brings a proof from a Braisa that says that if the blood of a korbon became tamei, and the Kohen threw it onto the Mizbe'ach anyway, if it was done b'shogeg, the korbon is valid. If it was done b'meizid, the korbon is not valid. This invalidity is only D'Rabanan, because a Braisa says that D'Oraisa the tzitz makes such a blood offering valid. Now, this would mean that the **Rabanan** will require the person to bring another korbon, which D'Oraisa is unnecessary and should be assur. We see that the **Rabanan** uproot an issur D'Oraisa!
 - **R' Yose bar Chanina** said, when the Braisa says that the korbon is not valid, it means that the meat may not be eaten by the Kohanim, but the korbon itself is valid and therefore another korbon will not be brought.
 - **Q:** Even the fact that the meat will not be eaten shows that the **Rabanan** may uproot a D'Oraisa, because we learn from a pasuk that the Kohanim are supposed to eat the meat, and through that effect a kaparah for the bringer of the korbon!? **A: R' Yose bar Chanina** said, the **Rabanan** are only preventing an action from being done ("shev v'ahl taaseh"). It is only in this manner that the **Rabanan** have the ability to uproot a D'Oraisa, because it is not considered as uprooting a D'Oraisa altogether.
 - **R' Chisda** said, I was going to bring proofs from many other halachos D'Oraisa that the **Rabanan** said not to do (e.g., taking a lulav on Shabbos, wearing tzitzis on a linen garment, and others). However, based on this last answer, I cannot bring them as a proof.

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- **R' Chisda** brings a proof from a Braisa which says that the pasuk of “eilav tishmi'un” teaches that one must listen to a Navi even if he says to do an aveirah, like Eliyahu did on Har HaKarmel.
 - **Rabbah** said, there the pasuk specifically allows for the uprooting of the mitzvah, and is therefore different.
 - **Q:** Maybe we should learn from there that the **Rabanan** may do so as well? **A:** The pasuk only allows for this in instances that require such conduct to prevent widespread aveiros from being done.
- **R' Chisda** brings a proof from a Braisa which says that the **Rabanan** disallowed a method of nullifying a get, which D'Oraisa would be effective. We see the **Rabanan** could uproot a D'Oraisa!
 - **Rabbah** said, the reason they can do so over there is because all marriages are done subject to the will of the **Rabanan**, and the **Rabanan** can therefore annul the original marriage between this couple, thus making them no longer married.
 - **Q: Ravina** asked **R' Ashi**, this makes sense when someone gave kiddushin of money. We can say that the **Rabanan** deem that exchange of money as a gift and thereby nullify the marriage. However, if the kiddushin was done with bi'ah, how can they nullify that action? **A: R' Ashi** said, the **Rabanan** give that bi'ah the status of zenus, and not as an act of kiddushin.
- **R' Chisda** brings a proof from a Braisa which says that **R' Elazar ben Yaakov** said that he heard that Beis Din may give malkus and even misah for issurim D'Rabanan when the situation calls for it. We see that the **Rabanan** may uproot a D'Oraisa
 - **Rabbah** said, this is only allowed in instances that require such conduct to prevent widespread aveiros from being done.

V'LO ZEH V'ZEH MITAM'IN LAH

- **Q:** How do we know that the first husband (who is her true husband) may not become tamei to her if he is a Kohen? **A:** We learn from the pesukim that a Kohen may only become tamei to a wife that is valid to him, not for a wife that is passul to him.

V'LO ZEH V'ZEH ZAKA'IN BIMTZI'ASA...

- The reason the finds of a wife go to the husband is to prevent hatred between them. Here, we don't mind if there will be hatred, because they must separate.

U'BIMAASEH YADEHA

- The **Rabanan** instituted that a woman's earning belong to her husband because he is obligated to support her. Here, he does not have this obligation, so he is therefore not entitled to her earnings.

V'LO MEIFER NIDAREHA

- The Torah allows a man to annul certain vows of his wife so that she not become disgusting to him. In this situation, we have no problem if she becomes disgusting to him, because they must separate anyway.

HUYSA BAS YISRAEL NIFSILA MIN HAKEHUNA...

- **Q:** It seems obvious that she is assur to a Kohen, since she was mezaneh!? **A:** The chiddush is the next part of the Mishna, that says that a Leviya becomes assur to eat maaser.
 - **Q:** A Braisa says that a Leviya does not become assur to eat maaser just because she is mezaneh!? **A: R' Sheishes** said, the **Rabanan** penalized her in this case, for having gotten married on the testimony of a single witness.

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BAS KOHEN MIN HATERUMAH

- She is even passul to eat D'Rabanan terumah.

V'EIN YORSHAV SHEL ZEH V'YORSHAV SHEL ZEH...

- **Q:** Why are we discussing her kesubah when we said before that she does not get her kesubah? **A: R' Pappa** said, this is referring to the “kesubah b'nin dichrin”, which says that the property brought into the marriage by the wife will only be inherited by her own children (i.e. if she predeceases her husband and he inherits her

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estate, upon his death these properties will only be inherited by her children, not by any other children that the husband may have had).

- **Q:** This is a condition of the kesubah, and since we said there is no kesubah, it seems obvious that these kesubah conditions will not exist either!? **A:** We would think that only she, who did an issur, is penalized, but her children are not penalized. The Mishna teaches that they too are penalized by losing this kesubah condition.

ACHIV SHEL ZEH V'ACHIV SHEL ZEH CHOLTZIN...

- The brother of the first man must do chalitza D'Oraisa and may not do yibum only D'Rabanan. The brother of the second man does chalitza only D'Rabanan, and may not do yibum pursuant to D'Oraisa or D'Rabanan.

R' YOSE OMER KESUBASAH AHL NICHSEI BAALAH...

- **R' Huna** said that the 3 Tannaim listed at this point in the Mishna are listed in order of increasing chiddush, so that the first will not hold of the chiddush of the later, but the later will certainly hold of the chiddush of the earlier (**R' Shimon** says that even the bi'ah was not penalized, so certainly he would agree with **R' Elazar** that the money was not penalized, although **R' Elazar** would not agree with him. Also, they would both agree that if the money which is meant to keep a marriage together is not penalized, then the kesubah which is meant to be collected at termination of a marriage is not penalized like **R' Yose** said, although **R' Yose** would not agree with them).
- **R' Yochanan** said that the Tannaim are listed in order of decreasing chiddush, so that the first will certainly hold of the later chiddush, but the later will not hold of the earlier (if **R' Yose** did not penalize the kesubah payment from him to her, he will surely not penalize the monetary payment of **R' Elazar** which go from her to him, but **R' Elazar** would not agree with **R' Yose**. They will both hold that if these lifetime rights were not penalized then certainly the yibum, which takes place after death will not be penalized, like **R' Shimon** said. However, **R' Shimon** would not agree with them).

NISEIS SHELO BIRSHUS...

- **R' Huna in the name of Rav** says that we pasken this way.
 - **R' Nachman** said to **R' Huna**, you should have either said that the Halacha follows **R' Shimon** (who is the author of this part of the Mishna) or, if you are concerned that it will make it sound as if you hold of **R' Shimon** in his earlier psak as well, then at least say that you hold like **R' Shimon** "in his later psak"!?
 - **R' Sheishes** said, I think **Rav** was sleeping when he made this statement, because it makes it sound like there are those who argue and would make her assur even if she remarried based on 2 witnesses. However, that can't be because what else should she have done!? Also, a Braisa says that a woman who remarries based on 2 witnesses does not need a get from the second man, but if she married based on one witness she would need a get. This Braisa can't be following **R' Shimon**, because he says in another Braisa that neither of these women would need a get!?
 - The Gemara, and **R' Ashi**, and **Ravina** each interpret this second Braisa in a way that can make **R' Shimon's** view fit with the first Braisa as well. If so, the first Braisa may be following only the view of **R' Shimon**, which would mean that the **Rabanan** may actually argue on him, which is why **Rav** had to pasken as he did.
 - The Gemara gives another answer which explains the first Braisa as following the view of the **Rabanan**, and which requires a get in both cases. This confirms that the **Rabanan** argue on **R' Shimon**, and is the reason that **Rav** had to explain that he follows the view of **R' Shimon**.
 - **Q: Ulla** asked, how could **R' Sheishes** say that "what else should she have done" is a reason to say that we don't penalize her? A Mishna says, if a get is written with certain detailed flaws (dated to the wrong kingdom, written giving the wrong location, etc.) the get is passul and if she gets married to a second man, she is penalized in all the ways mentioned. Now, in that case, given that she is no expert, what else should she have done, and yet she is still penalized!? **A:** She should have shown the get to an expert.
 - **Q: R' Simi bar Ashi** asked, a Mishna says, if one of the yevamos get yibum, and based on that another yevama went and married another man, and it is later discovered that the yevama taken in yibum was an ailunis, the other yevama must divorce her husband and is penalized in

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many ways. Here we can say “what else should she have done”, and yet we penalize her!? **A:** She should have waited until she was certain that the woman taken in yibum was not an ailunis.

- **Q: Abaye** asked, a Mishna says, if the tzaros of an ervah went and married other men, and it then turned out that the ervah was an ailunis, the tzaros must divorce and are penalized. Here we can say “what else should she have done”, and yet we penalize her!? **A:** She should have waited until she was certain that the woman taken in yibum was not an ailunis.
- **Q: Rava** asked, the Mishna says, if the sofer mistakenly gave the get to the woman and the receipt for kesubah payment to the man, and they then gave these to each other (he thought he was giving her the get and she thought she was giving the receipt) and she got married based on this “get”, she must divorce and is penalized. Here we can say “what else should she have done”, and yet we penalize her!? **A:** She should have read the get before marrying.
- **Q: R’ Ashi** asked, the Mishna says, if the sofer changed their names or the names of the cities, and she got remarried based on the get, she must get divorced and is penalized. Here we can say “what else should she have done”, and yet we penalize her!? **A:** She should have read the get before marrying.
- **Q: Ravina** asked, a Mishna says, if a woman remarried based on a “bald get” (a special get that requires additional signatures, but is missing those signatures), she must get divorced and is penalized. Here we can say “what else should she have done”, and yet we penalize her!? **A:** She should have read the get before marrying.
- **R’ Ashi** said, we do not make a woman get divorced, and impose the other penalties, based on a rumor that the first husband has reappeared.
 - **Q:** What type of rumor is meant? If it is a rumor after the nissuin, **R’ Ashi** has already once said that we don’t concern ourselves with a rumor after nissuin!? **A:** We would have thought that since this woman could not marry without getting permission from Beis Din first, it is considered as if the rumor was already there before the nissuin (the fact that she needs permission suggests that there is a possibility that the husband is alive). **R’ Ashi** therefore teaches that even in this case the rumor which came about after the nissuin is not a matter of concern for us.

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NISEIS AHL PI BEIS DIN TEITZEI...

- **Ze’iri** said, our Mishna is not followed in practice, based on a Braisa that was taught that says that if Beis Din paskened based on a mistaken fact (they said it was already night, but it was later determined to be a mistake, because the clouds dispersed and the sun was still visible), it is not called a true “psak” and one who followed the erroneous statement *would* be chayuv to bring a korbon. **R’ Nachman** says, it is considered to be a psak of Beis Din, and therefore she would be patur from having to bring a korbon.
 - **R’ Nachman** said, his view can be proven from the fact that a single witness is never believed, so it must be that the reason she is allowed to marry is based on the psak of Beis Din.
 - **Rava** said, **Ze’iri’s** view can be proven from the fact that when one witness says that the husband died we would allow her to marry. If 2 witnesses then come and say that he did not die we would say she may not marry. If another single witness then comes and says that he died we would again allow her to marry. If this was based on a psak, rather than a mistake, we would not allow them to allow, then prohibit, and then allow again.
 - **R’ Eliezer** also seems to hold that it is considered a mistake of fact, because he says that the woman must bring a chatas.

HORUHA BEIS DIN L’HINASEI...

- **Q:** What type of immoral act is the Mishna referring to? **A: R’ Elazar** says she was mezaneh with a man who would be mutar for her to marry. **R’ Yochanan** says it means she was a widow who then married a Kohen Gadol or a divorcee who married a regular Kohen.

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- **R' Elazar** would agree that the Mishna can also refer to **R' Yochanan's** cases. However, **R' Yochanan** would say that for regular znus she can say that Beis Din gave her the status of a single woman, and therefore she would not be chayuv.
- A Braisa says like **R' Yochanan**.

MISHNA

- If a woman's husband and his only child travel overseas, and they came and told her, first your husband died and then the child died (thus making her patur from yibum), and she got married based on that, and then others came and told her that the child died before the husband (thus making her chayuv in yibum and assur to marry someone else), she must leave the second husband and the child born either first (before the second witnesses came) or last (after the witnesses came) are mamzeirem (this follows **R' Akiva**).
- If they first told her that the child died and then the husband died, and based on that she did yibum, and they then told her that first the husband died and then the child died, she must leave him, and the child born first or last is a mamzer.
- If they told her that her husband died and she remarried based on that, and then they told her that he was alive at the time of her remarriage, but died later on, she must leave the second husband, and a child born before the first husband's death is a mamzer.
- If they told her that her husband died, and based on that she accepted kiddushin from a man, and then her first husband appeared, she may return to her first husband. Even if the second man gave her a get, it would not pasul her from marrying a Kohen. **R' Elazar ben Masya** darshened the pasuk "v'isha gerusha mei'isha" – only a woman who gets divorced from someone who was her husband becomes assur to a Kohen.

GEMARA

- **Q:** What is meant by the Mishna when it says "first" and "last"? If "first" means before she found out that she shouldn't have remarried and "last" means after they found out, that would mean the child is a mamzer in either case, and the Mishna should just say that the "the child is a mamzer"? **A:** Since in the later case of the Mishna the Mishna discusses where she was told that her first husband was not dead at the time she remarried but died later on, and in that case it makes a difference whether the child was conceived first (before the first husband died) or last (after he died), in this first case we also say "first" and "last", even though there is truly no need to speak in those terms.
- A Braisa says, when we say that the child of a yevama who married someone other than her yavam, is a mamzer, that only follows **R' Akiva**, who says that a child produced from chayvei lavim is a mamzer. However, the **Chachomim** say there is no mamzer by a yevama.
- **R' Yehuda in the name of Rav** said, the pasuk of "lo sihiyeh eishes hameis hachutza l'sih zar" teaches that a yemava cannot have effective kiddushin from a man other than her yevama. **Shmuel** said, since we do not know correct pshat in the pasuk, we will require her to receive a get (because **Shmuel** is not certain whether the pasuk teaches that there is a lav, or whether it teaches that kiddushin is not effective).
 - **R' Mari bar Rachel** said to **R' Ashi**, that **Ameimar** paskened like **Shmuel**.
 - **R' Ashi** said, based on this, if a yevama marries someone else, and her yavam is a Kohen, the Kohen should give her chalitza and she may remain with her husband (since in order to do yibum we would require her to receive a get, which in this case would make her assur to the yavam who is a Kohen).
 - **Q:** This means that the second husband comes out ahead by having married her when he wasn't allowed to (since he may remain married to her)!? **A:** What **R' Ashi** must have said was, that if the yavam was a Yisrael, we require her to receive a get from her current husband and she is then permitted to the yavam for yibum.
 - **R' Gidal in the name of R' Chiya bar Yosef in the name of Rav** said, kiddushin is not effective for a yevama, but nissuin is.
 - **Q:** The Gemara assumes this to mean that if a yevama accepted kiddushin from an outside man she would not need a get, but if she went through with nissuin she would

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need a get. Why would the two be treated differently? **A: Rav** must have said that neither kiddushin nor nissuin is effective. **A2:** Nissuin with another man is “effective” in that it is treated as znus, which according to **R’ Hamnuna** makes her assur to the yavam. **A3:** Although there should be no difference, we require her to receive a get when nissuin was done, out of concern that if we don’t, people will say that even when a woman got married based on erred testimony that her husband had died she does not need a get.

- **R’ Yannai** said, they voted and decided that kiddushin (from an outside man) is not effective on a yevama.
 - **Q: R’ Yochanan** asked, this ruling seems unnecessary, because a Mishna says that if a man gives kiddushin to a woman and says it should take effect after she receives chalitza from her yavam it is not effective!? **A: R’ Yannai** told him, if not for the ruling, you would have thought that it is not effective because it is not taking effect at the time that it is given. Now you realize that it is because kiddushin does not take effect on a yevama at all.
 - **Q: Reish Lakish** said to **R’ Yochanan**, your proof is anyway not good, because that Mishna may follow **R’ Akiva**, who says that kiddushin is not effective for chayvei lavim. **A:** The Mishna can’t follow **R’ Akiva**, because we find in a Mishna that **R’ Akiva** says that things can take effect in the future (“adam makneh davar shelo bah l’olam”), and therefore, the kiddushin should take effect after she receives the chalitza!
 - **Reish Lakish** said, that **R’ Huna the son of R’ Yehoshua** interprets the Mishna of **R’ Akiva** in a way which does not require us to say that he holds that a person may effect something in the future.
 - This argues on **R’ Nachman bar Yitzchak**, who says that **R’ Huna** holds like **Rav**, who holds like **R’ Yanai**, who holds like **R’ Chiya**, who holds like **Rebbi**, who holds like **R’ Meir**, who holds like **R’ Eliezer ben Yaakov**, who holds like **R’ Akiva**, that a person can effect something (he can transfer something) that has not yet come into the world.

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- **R’ Nachman bar Yitzchak** gave a list of chachomim who held that a person may transfer something that is not yet in the world. The Gemara now shows where we find that each one on this list holds that way.
 - **R’ Huna** – he says that if one sells the future dates of his tree, the seller may not back out of the deal once the dates begin to grow, because the sale of the future fruits was a valid sale.
 - **Rav** – we find that **R’ Huna in the name of Rav** said, if one says to another, “The field that I am about to buy, I am now giving to you and should be yours retroactively from now”, it is a valid transfer.
 - **R’ Chiya and R’ Yannai** – it once happened that **R’ Yannai** was expecting fruit to be given to him on Shabbos, when it would be too late to separate maaser from it, so he separated maaser from fruit he had in his house for the fruit that he expected would be given to him later on. **R’ Chiya** told him that he acted properly when doing so.
 - **Rebbi** – we see that he says that if one purchases a slave, and prior to the purchase he writes a document for the slave that says, “When I purchase you, you are freed retroactively from now”, the slave goes out free.
 - **R’ Meir** – he says in a Braisa that if someone give kiddushin and says that it should take effect after he or she converts or is freed from being a slave, or after his or her spouse dies, or after she gets chalitza, the kiddushin takes effect.
 - **R’ Eliezer ben Yaakov** – he says in a Braisa that one can designate terumah from or for produce that is still attached to the ground if he says “When this produce grows to a third of its growth and I then cut it, it should be terumah”.

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- **R' Akiva** – he says in a Mishna that if a woman makes her earning assur with konam to her husband, the husband should annul the vow, just in case she ends up earning more than the amount that he is entitled to get from her, even though right now she does not make this amount.
- **Q:** They asked **R' Sheishes**, may a woman do yibum based on a single witness' testimony that her husband has died? Do we say that a single witness is believed because he wouldn't lie regarding something that will eventually become known, and the same should therefore apply here, or do we say that he is believed because the woman makes sure to check carefully before she remarries, but in this case where she knows and may be fond of the yavam, she is not likely to check as thoroughly, and therefore we do not allow it? **A:** He said, we can answer this from our Mishna. The Mishna says, if a woman was told that first her child died and then her husband died, and based on that she did yibum, and then 2 witnesses said the order of death was reversed, she must leave the yavam and any children they had are mamzeirem. Now, if she was originally told by 2 witnesses as well, there would be no reason to rely more on the second set of witnesses than on the first set. Also, the Mishna would have said that the children are a safek mamzer, not a definite mamzer. Rather, it must be that initially she was told by only one witness. Yet, had these later witnesses not come, we would believe that one witness. It must be that a single witness is believed for yibum as well.
 - **Another version** says that the question posed is easily answered that one witness is believed, since we find in a Mishna that even the woman herself is believed to say that her husband has died and she is therefore subject to yibum. The question that is a bit more complicated is whether a woman who should be subject to yibum may marry an outside man based on the testimony of a single witness (who says that the child died after the husband, or that the yavam died as well). Do we say that the witness is believed because he would not lie regarding something that will eventually become known to all, or do we say that he is normally believed because a woman carefully checks before she remarries, but in this case she will not carefully check, because she at times hates the yavam? To that question, **R' Sheishes** brought the proof from our Mishna (as stated above) that a single witness is believed for yibum. However, the Gemara says that this proof is not good, because it may be that the original testimony was said by 2 witnesses as well. The reason we believe the second set more than the first is because the case is where the second set are hazama witnesses (they say the first set could not know the testimony they claim to know), and that is why they are believed over the first set. Therefore, there is no proof that one witness alone would be believed.

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- **R' Mordechai** (or **R' Acha**) said to **R' Ashi**, we can bring a proof from a Mishna that a single witness is believed to allow a yevama to marry an outside person. The Mishna says that a woman herself is not believed to say that her yavam has died. This would suggest that although she is not believed, a single witness would be believed.
 - **Q:** The Gemara says this proof is not correct. The next part of the Mishna says that a man is not believed to say that his brother has died (and he is therefore allowed to marry the brother's wife in yibum). Do you think that means that he is not believed but a single witness would be believed to permit him to do yibum? The only reason a single witness is believed is to prevent a woman from becoming an agunah. We wouldn't believe a single witness to help him!? Rather, the Mishna may mean that a single witness is not believed in the first case as well. The reason the Mishna stresses that she herself is not believed is to show that even according to **R' Akiva**, who says that a child born from a yevama and an outside man is a mamzer, and therefore maybe we should say that the woman must have checked thoroughly, to make sure to prevent her children from becoming mamzeirem, she is still not believed to say that her yavam has died.
- **Rava** said, a single witness is believed to allow a yevama to marry an outside man, based on a kal v'chomer: if a single witness is believed to allow her to remarry in a case of kares, surely he will be believed to allow her to marry when only facing a lav. One of the **Rabanan** said to **Rava**, this is not a good kal v'chomer, as can be seen by the fact that she herself is believed regarding the kares case, but not regarding the lav case. The reason is, that since at times she hates her yavam, she may not check as thoroughly before marrying.

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ZEH MEDRASH DARASH R' ELAZAR BEN MASYA...

- **R' Yehuda in the name of Rav** said, **R' Elazar** could have darshened a diamond (a big chiddush) from this pasuk, but instead he darshened pottery (a chiddush that was obvious without the pasuk). What he could have darshened from this pasuk is that even if a woman received a get that only divorces her from her husband, but keeps her assur from marrying any other man (the husband made this a stipulation of the get), although the get is ineffective in terminating the marriage, it does make her assur from ever marrying a Kohen.

MISHNA

- If a man's wife travelled overseas and witnesses came and told him that she had died, and based on that he married her sister, and after that his first wife appeared, the first wife is mutar to return to him (the second marriage is not considered to be a marriage at all). Therefore, he remains mutar to the sister's relatives (which he would not be if the marriage was considered effective and then terminated), and she is mutar to his relatives. Also, if the first wife then dies, he is mutar to now (re)marry the sister.
- If they told him that his wife died, and he therefore married her sister, and then they told him she died, but was not yet dead at the time of his marriage to the sister, any child conceived while the first wife was alive is considered to be a mamzer, and any child conceived afterward is not a mamzer.
- **R' Yose** says, anyone who makes another's marriage passul, makes his own marriage passul as well (i.e. if by marrying the sister he makes the sister assur to her own husband, he becomes assur to his first wife as well, as will be explained in the Gemara). If he doesn't make another's marriage assur, then his own marriage does not become assur either.

GEMARA

- The Gemara says, even if the wife and the husband of the wife's sister both travelled and were both reported as dead, and he therefore married his wife's sister, and then his wife and the sister's husband both appeared, although the wife's sister will be assur to her husband, this man will be mutar to have his wife return to him.
- **Q:** It seems to be that our Mishna cannot follow **R' Akiva**, because since in a Braisa he requires a get be given to the wife's sister upon the wife's return, his wife then becomes the sister of his divorcee, which would be assur to him. It must be that our Mishna does not follow **R' Akiva**. **A:** In that Braisa he is referring to a woman who accepted kiddushin and then went overseas, and the husband was then told that she died. He then went and married her sister. People will think that the kiddushin must have been made on a stipulation which was not fulfilled, which is why he was legally allowed to marry her sister. When they see that marriage terminate without a get, they will think that a marriage may terminate without a get. That is why **R' Akiva** requires a get be given in that case. In our Mishna, we are discussing where they already had nissuin before she travelled overseas. Nissuin would not be made on a stipulation and therefore does not lead to the same concern as the Braisa. Therefore, even **R' Akiva** would agree that no get is needed in the Mishna, which is why he may return to his first wife.
 - **Q:** **R' Ashi** asked **R' Kahana**, if the Mishna follows **R' Akiva**, it should give the case where the wife was thought dead and the husband therefore went and married her sister *or her mother*, because **Rava** explains the view of **R' Akiva** to mean that he says one may marry his mother in law after the death of his wife, because the pasuk excludes her from the sreifah penalty!? **A:** **R' Kahana** said, even according to **R' Akiva**, although a mother in law is no longer subject to the death penalty after her daughter's death, it would still be assur for her son in law to marry her.
 - **Q:** Why don't we say that just as when a woman mistakenly remarries based on a single witness' testimony and her husband then appears she is assur to him, so too when a man marries his wife's sister because he is told that his wife had died and she then appears, he should also be assur to return to his wife!? **A:** The cases are not similar. If a wife is mezaneh b'meid she becomes assur to her husband D'Oraisa, so the **Rabanan** were goizer that she becomes assur in this case even though it was only b'shogeg. However, a man who is mezaneh b'meid with his wife's sister does not become assur to his wife D'Oraisa, and therefore the **Rabanan** were not goizer in a case where it was done b'shogeg.

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- **Q:** The Gemara said that a man who is mezaneh b'meizid with his wife's sister does not become assur to his wife. How do we know this? **A:** A Braisa says, the pasuk that says a married woman who was mezaneh becomes assur says "osah", which is an exclusionary term and teaches that only such a woman becomes assur to her husband, but a woman does not become assur to her husband if he is mezaneh with her sister. Without the pasuk, we would say a kal v'chomer – if when a woman does a "small issur" she becomes assur to her husband, surely when the husband does a "bigger issur" he should become assur to his wife.
- **R' Yehuda** says, **B"S** and **B"H** agree that a man who is mezaneh with his mother in law becomes assur to his wife. They argue when a man is mezaneh with his wife's sister – **B"S** say he becomes assur to his wife, and **B"H** say that he does not become assur. **R' Yose** says they both agree that a man who is mezaneh with his wife's sister will not become assur to his wife. They argue when a man is mezaneh with his mother in law – **B"S** say he becomes assur to his wife and **B"H** say he is mutar. **R' Yose** says we learn the Halacha that if he was mezaneh with her b'shogeg he doesn't become assur to her, from a kal v'chomer – if a woman who is mezaneh b'shogeg does not become assur to her husband (who had made her assur to every other man in the world), then certainly a man who was mezaneh with one of her relatives b'shogeg will not become assur to his wife (who only made him assur to her relatives, not to women in general). The Halacha that he remains mutar even if it was done b'meizid is learned out from the pasuk of "osah" (as the previous Braisa said).
 - **R' Ami in the name of Reish Lakish** explains the view of **R' Yehuda** (with regard to one who was mezaneh with his mother in law). The pasuk says "ba'eish yisrifu oso v'eshen" – which literally says that when a man is mezaneh with his mother in law, he and her and his wife are burned. Now, the wife did nothing wrong!? The pasuk must be teaching that the wife now becomes assur to her husband through his act.
 - **R' Yehuda in the name of Shmuel** said that the Halacha does not follow **R' Yehuda**.
 - **Q:** The earlier Braisa brought a kal v'chomer, which mentioned a "small issur". What is meant by that? **A:** **R' Chisda** said, that refers to one who remarries his divorcee after she had married somebody else. When the second husband marries her she becomes assur to the first husband. When the first husband then remarries her, she becomes assur to the second husband. We see that the first husband's aveirah caused the one who made her assur to him (the second husband) to become assur himself.
 - **Q:** The case of remarrying a divorcee is very different than the case of marrying a wife's sister (and therefore can't be compared): 1) the divorcee herself becomes defiled, whereas the wife in the case of the man who was mezaneh with the wife's sister does not, 2) the second husband of the divorcee becomes assur to her when she marries any other man, whereas the wife is only assur because of the sister, 3) the divorcee remains assur forever, whereas the sister is only assur for as long as the wife is alive!? **A:** Rather, **Reish Lakish** said, the "small issur" must be the issur with a yevama.
 - **Q:** What is the issur by a yevama? If it is talking about where she married an outside man, and this follows **R' Hamnurah**, who says she becomes assur to her yavam, that case is different than a wife's sister because of the first 2 characteristics mentioned regarding a divorcee!? If it is the case of where she got maamer from one brother and then a second brother had bi'ah with her, thereby making her assur to the first brother, the same issur would apply if the second brother only gave her maamar as well, and did not have bi'ah with her!? Even according to **R' Gamliel** who says the second maamar has no effect, the Braisa can say that the second brother gave a get or chalitzah!? Why did the Braisa speak only in terms of bi'ah? **A:** Rather, **R' Yochanan** said, the "small issur" is the issur of sotah.
 - **Q:** What is the issur of sotah, that when the husband has bi'ah with her she then becomes forever assur to the man who was mezaneh with her? She would become assur to him even if the husband gave her a get or said that he doesn't want her drinking the water!? Are we to say that the issur is when the man was mezaneh with her she becomes assur to her husband? That is no small issur, it is the huge issur of eishes ish!?

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A: Rather, **Rava** said, the issur of eishes ish is considered to be a “small issur” in the sense that the husband does not make her assur for his entire lifetime (he can end the issur by giving her a divorce).

R' YOSE OMER KOL SHEPOSEL...

- **Q:** What does **R' Yose** mean to say? He can't be saying that just like the wife is mutar to her husband the sister should be mutar to her husband, because then **R' Yose** should say “kol *she'ein* posel...”. Rather, **R' Yose** must be saying that just like the sister is assur to her husband, so too the wife is assur to her husband. If so, what is meant by the second part of the statement where he says “kol she'eino posel...”? **A:** **R' Ami** said that **R' Yose's** statements are going back on the earlier part of the Mishna that says that a woman who remarried on one witness' testimony and then found out that her husband was still alive must get divorced but need not bring a korbon, and a woman who remarried on the testimony of 2 witnesses must bring a korbon. **R' Yose** is saying that he is only permitted to return to his wife when the sister would be permitted to return to her husband (when she remarried based on 2 witnesses) and not if the sister becomes assur to her husband (she got remarried based on a single witness). **A2:** **R' Yitzchak Nafcha** said that **R' Yose** is referring to the beginning of the current Mishna (where she got remarried based on a single witness). The 2 cases referred to by **R' Yose** are: 1) where the man was married to his wife only with kiddushin and she then went overseas, 2) he was married to her with nissuin and she then went overseas. **R' Yose** is saying, in the first case, since it is possible for people to think that the kiddushin was made on a condition that was never fulfilled, and therefore the second marriage was a valid one, we would require the sister to receive a get to show that the marriage is terminated, and she therefore becomes assur to her original husband if he returns (because she was “married” and received a get from another man), therefore the first man would be assur to his wife as well. However, in the second case, people will know it was a mistaken marriage, she will not require a get, and will therefore be mutar to return to her husband, which will make the first man and woman mutar to each other as well.
 - **R' Yehuda in the name of Shmuel** paskens like **R' Yose**.
 - **Q:** **R' Yosef** asked, we find that **R' Huna** explains **Shmuel's** view in a machlokes to mean that we are not concerned that people will think that the first marriage was done on a condition thereby making the second marriage a valid one. If so, how can he hold like **R' Yose**? **A:** **Abaye** said, that only contradicts with **R' Yose** according to **R' Yitzchak Nafcha's** understanding. It may be that he paskens like **R' Yose** according to **R' Ami's** understanding. **A2:** Even if it does follow **R' Yitzchak Nafcha**, it may be that he only paskened like the negative part of his statement, not on the positive side (and is therefore not contradictory). **A3:** Maybe **R' Huna's** explanation of **Shmuel** is incorrect, and he actually argues in something else altogether.