



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Yevamos Daf Lamed Zayin

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 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** 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.