

OVERVIEW of the Daf

1) Collecting the fine (cont.)

The question of whether a girl can become a בוגרת in the grave and the collected fine would go to her son is challenged. Is it possible for a girl who died a נערה to have a child when the entire span of na'arus is only six months which is not long enough to conceive and give birth to a viable child?

A second, alternative interpretation of Rava's dispute is presented.

Mar bar R' Ashi phrased the question slightly differently.

2) Collecting the fine after she became betrothed

Rava asked Abaye who collects the fine if a girl is violated and then becomes betrothed before the attacker is found and convicted. Does it go to the girl or to the father?

Abaye answered that it should go to the father.

Rava unsuccessfully challenged this interpretation.

3) **MISHNAH:** The Mishnah highlights differences between the payments made by the attacker and the seducer. A second topic of the Mishnah is the obligation of the violator to marry the victim and related details are presented.

4) Pain

Shmuel's father offers one explanation for the pain (צער) payment that the attacker must make.

R' Zeira successfully challenges this interpretation.

R' Nachman in the name of Rabbah bar Avuha offers a second explanation of the pain payment.

This interpretation is also successfully challenged.

A third explanation is presented but unsuccessfully challenged.

5) The seducer's payment of fifty Shekalim

It is noted that the Mishnah's language regarding the seducer's obligation to pay fifty Shekalim is not precise.

Abaye explains that the Mishnah means that if the seducer does not marry his victim he must pay immediately.

A Baraisa expresses the same position.

6) Preventing marriage

It is noted that the Baraisa just cited indicated that the girl or her father can prevent the marriage with the attacker or seducer. The Gemara inquires after the source that her father can prevent the marriage with the violator.

Abaye and Rava offer alternative explanations.

Abaye and Rava explain why they reject the other's explanation.

7) Collecting from the violator

A Baraisa is cited that teaches that in the event the victim

(Overview...Continued on page 2)

Distinctive INSIGHT

There is no kesuva in the case of אונס

רבנן סברי טעמא מאי תקינו רבנן כתובה כדי שלא תהא קלה בעיניו להוציאה, והא לא מצי מפיק לה

The Baraisa cites an argument between Rabanan and Rabbi Yose b. R' Yehuda whether a woman who was married to the assailant after אונס will receive a kesubah if and when the marriage ends. Rabanan assert that the payment of the fine is in place of the money of the kesubah, and when the marriage ends the woman has no further financial claim against the husband. Rabbi Yose b. R' Yehuda contends that the woman is eligible to receive a kesubah of one hundred zuz.

The reason for each opinion is brought in the Gemara. Rabanan point out that the kesubah is established in order that the husband be faced with a financial deterrent to not divorce his wife. Here, the husband cannot divorce her due to the prohibition in the Torah that he not do so. Therefore, there is no reason to establish a kesubah in this case to deter him from divorcing her.

The words of the Baraisa state that if the woman demands a divorce, the woman "does not have a claim" to a kesuva. If the man dies, the Baraisa says "the money she received as a fine covers the amount due for her kesubah." Rashi learns that the wording of this second ruling is not technically accurate, as there is no kesuva at all, and it is not that there is a kesubah but that we see the obligation as having been satisfied. Tosafos, however, learns that although in the case of divorce there is no kesubah at all, this is because there was no need to set up a deterrent, as we mentioned above. When the man dies, however, there is a kesubah as for any other widow who is given a kesubah so that she will appear worthy in her husband's eyes (חינא), but it is considered already paid. Tosafos does not explain, though, why there is a kesubah in this case, which is actually distinct from a normal case of a widow. ■

REVIEW and Remember

1. What is the shortest pregnancy to produce a viable baby?
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2. When does the violator have to make his payment?
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3. When does the seducer have to make his payment?
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4. Does the wife of a violator collect a kesubah upon divorce?
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By the Wolper family
in memory of their father and grandfather
ר' יהושע שכנא בן ר' יהודה לייב ע"ה

HALACHAH Highlight

The duration of the period of נערות

אין בין נערות לבגרות אלא ששה חדשים

There is only six months between נערות and bagrus

There was once a man who accepted kiddushin on behalf of his fourteen-year-old daughter without her consent. Four months later when the girl heard what her father had done she accepted kiddushin for herself from a different person. This girl did not begin to menstruate until six days after her father accepted her kiddushin and the question was whether her father's kiddushin was binding or whether the kiddushin she accepted was valid because she was already an adult at the time her father accepted kiddushin on her behalf. Rav Yehudah Asyah¹, the Beis Yehudah, responded by first pointing out that being a niddah has no bearing on whether a girl is a minor, a naarah or a בוגרת. נערות begins when a girl reaches the initial stage of physical maturity (שתי שערות) regardless of whether she becomes a niddah. He then questions whether the period of נערות is always going to be six months, as mentioned in our Gemara or could it be longer or shorter.

He begins his analysis by citing our Gemara that states, "Didn't Shmuel state that there is only six months between נערות and bagrus." The language, "אין בין ... אלא" clearly indicates that נערות can not be longer than six months. The other question of whether נערות could be shorter than six months is more complex. Rashi's comments to the

(Overview...Continued from page 1)

chooses to end her marriage with the attacker she does not collect a kesubah.

The Baraisa concludes with a dispute between Rabanan and R' Yosi the son of R' Yehudah whether there is a kesubah if the attacker dies.

The point of dispute is explained.

8) Marrying the victim

Rava of Parzika asked R' Ashi why there is a discrepancy concerning the halacha that the attacker must marry his victim but the seducer does not. ■

Gemara Kiddushin² indicate that he maintains that if a girl displays the physical characteristics of a בוגרת less than six months after she became a naarah it is not necessary to wait until six months are over to categorize her as a בוגרת. Rambam³, in contrast, writes explicitly that the period of נערות is fixed at six months and gives no indication that a girl can become a בוגרת by producing the characteristics of a בוגרת. Shulchan Aruch⁴ mentions both possibilities, i.e. the passage of time as well as the physical signs of becoming a בוגרת thus aligning himself with the position of Rashi that it is possible for a girl to become a בוגרת in less than six months if she displays the characteristics of a בוגרת. ■

¹שו"ת בית יהודה אה"ע סי' ל'.
²רש"י קידושין ע"ט ד"ה אי נימא.
³רמב"ם פ"ב מהל' אישות ה"ב.
⁴שו"ע אה"ע סי' ל"ז סעי' ה' וז'.

STORIES Off the Daf

Modern Miracles

"ובשיתא ירחי מי קא ילדה..."

Someone once asked Rav Shlomo Zalman Aurebach, zt"l, to explain the fact that, nowadays, we see that even extremely premature babies can survive. How can this be reconciled with the statement of Chazal that it is impossible for a woman to give birth to a viable child in less than six months? The gadol explained, "Chazal only recorded what they observed in the absence of this modern simulation of the womb—the incubator."

He concluded, "Don't forget to be filled with gratitude to Hashem for the lifesaving wonders of modern medicine!"

A newly observant woman from New England once related, "I didn't know the

phrase 'השגחה פרטית' until recently, but my story cannot be anything but that. When I was pregnant with my second child, I was told that the pregnancy was going well, but in my heart I knew that something was wrong. So I called my doctor and insisted on a second-level ultrasound. My doctor complied and found a mass next to the baby, but he told me it's nothing to worry about, since my blood tests were all normal. Well, a few weeks later, my son was born at only 24 weeks, and he weighed only 673 grams (1 pound, 7.5 ounces). That same week, I was diagnosed with stage IV carcinoma—the mass that had showed up on the ultrasound. On looking back in my records, the doctors found that they had misread my earlier lab reports. So that mistake was the first in a series of miracles, because if those lab reports had been read accurately, I'm

sure the doctors would have convinced me to terminate the pregnancy in order to save my life. Instead, I had a precious baby. But the doctors told me the baby would probably die, or suffer from severe physical and mental handicaps—and I also was quite ill myself at the time.

"I decided to try to learn how to pray and to try to start to observe some of the mitzvos. My baby was discharged from the hospital after three months in an incubator, on erev Pesach, and during the holiday we saw further miracles because he went through a crisis while at home. Now my baby is five and a half years old, a perfectly healthy, normal, lively child, who will start kindergarten this fall, אם ירצה ה', at a Jewish day school where he will learn about השגחה פרטית. Oh yes, and I have recovered completely from my cancer, ברוך ה', and we are growing in our Judaism." ■

