

OVERVIEW of the Daf

1) A husband's obligation to support his wife (cont.)

A third opinion is cited in the Baraisa quoted by Rava to demonstrate that there are Amoraim who maintain that a husband's obligation to support his wife is Biblical.

R' Yosef quotes another exposition of the verse cited in the Baraisa to teach that the practice of the Persians is not consistent with Biblical law.

This conclusion is consistent with a similar teaching of R' Huna.

2) Clarifying the dispute related to the funeral a husband must provide his wife

The Gemara clarifies the exact point of disputer between Tanna Kamma and R' Yehudah concerning the funeral a husband must provide for his wife.

R' Chisda in the name of Mar Ukva rules in accordance with the position of R' Yehudah.

3) A man who goes insane

Another ruling from R' Chisda in the name of Mar Ukva is cited that relates to a husband who goes insane.

Ravina inquires of R' Ashi why this ruling is different than the man who goes out of the country where a Baraisa teaches that his children are not supported from his property.

R' Ashi explains the difference between the two cases.

Two opinions are presented concerning the definition of the "דבר אחר" mentioned in the Baraisa.

The two definitions are analyzed.

R' Chiya bar Avin in the name of R' Huna rules that if a man travels out of the country and his wife dies Beis Din will enter his property to provide his wife with a burial.

A detail related to this ruling is clarified.

R' Masna issues a ruling related to a husband who gives instructions not to bury his wife from his estate.

The ruling is successfully challenged and revised to refer to a case where he instructs that they should not bury him from his property.

4) **MISHNAH:** The Mishnah presents the details of when a girl leaves her father's domain and enters her husband's domain.

5) Clarifying the Mishnah

The Gemara clarifies what the Mishnah intended to convey with the word לעולם.

6) A girl who is given to the agent of the husband

Rav and R' Assi dispute whether a girl who is handed to the agents of the husband is in the husband's domain even for matters of terumah.

R' Assi's opinion that she may even eat terumah is unsuccessfully challenged.

Shmuel and Reish Lakish mention additional effects that result from being handed to the agents of the husband.

(Overview...Continued on page 2)

Distinctive INSIGHT

The funds used for buial

האומר אם מת הוא לא תקברוהו מנכסיו אין שומעין לו. לאו כל הימנו שיעשיר את בניו ויפיל עצמו על הציבור

Rav Masna teaches that if a person gives instructions before he dies that his burial expenses should not be taken from his assets, we do not honor this request. The reason is because the person is not allowed to prevent expenses on the part of his sons at the expense of the community.

The Gemara (Sanhedrin 46b) analyzes the custom of burying the dead. The Gemara suggests that perhaps we bury the dead to avoid the disgrace of leaving the body out to decay. Alternatively, burial might be in order to allow the deceased to procure atonement. Being subject to the ordeal of being lowered into the ground and covered is a process which atones for the sins. The difference between these approaches is where the person gave instructions that he not be buried after death. If the reason for burial is to obtain atonement, we might honor his request, because he expressed his interest not to achieve atonement. However, if the reason for burial is to avoid the disgrace of being left out to decay, we would not honor his request. This is a humiliation which the surviving family members would endure, and the one who died is not empowered to subject his family to this shame.

Tosafos (Bechoros 52b, ד"ה באין) points out that our Gemara is not relevant to the discussion in Sanhedrin. When the person stipulates that he does not agree that his personal funds be used for his burial, although we disregard his instructions, the point is not that the person does not want to be buried. Rather, we know that he certainly wants to be buried, but he simply does not want his family to have to pay for it. Rav Masna therefore rules that he should be buried, and the funds are taken from the family. The sons cannot allow their father's burial expenses to be placed upon the community as a charity case. ■

REVIEW and Remember

1. What is the dispute between Tanna Kamma and R' Yehudah concerning a husband's obligation to provide for his wife's funeral?

2. Is a person allowed to demand that the community pay for his burial?

3. When does a girl leave her father's domain?

4. What is the Biblical source that teaches that once a girl was given to the agent of the husband she receives the punishment of strangulation for adulterous behaviour?

HALACHAH Highlight

The obligation of a husband to bury his wife twice

האומר אם מתה לא תקברוה מנכסיו

If a man says if [my wife] dies do not bury her from my property

There was once an incident where after a husband provided his wife with a burial that complied with all standards of halacha some grave robbers came and dug up the grave and left the body unburied. The question arose as to whether it is the husband's obligation to rebury his wife. Someone¹ wanted to argue that a husband is only obligated to bury his wife once, which he did, and any further obligation would be the responsibility of her family. As precedent for this assertion the halacha of ransoming one's wife from captivity was cited. The halacha is that if a man ransomed his wife from captivity and she is taken into captivity a second time, the husband may divorce her, pay out her kesubah and she will have to use her kesubah money to redeem herself. Seemingly, a husband should also be able to claim that he is only obligated to provide his wife with one burial.

Rav², the Tashbatz, disagreed with this parallel for a number of different reasons. One point was that in the case of captivity after the husband divorces and pays out her kesubah the responsibility to redeem this woman falls onto her shoulders. In contrast, in this case if the husband will not bury her, the obligation to bury her will become the responsibility of her family

(Overview...Continued from page 1)

R' Yochanan and R' Chanina together echo R' Assi's position.

A successful challenge is presented against all the previous opinions except for Shmuel's.

The Baraisa cited to challenge the earlier opinions is challenged and clarified by R' Ashi.

A Baraisa rules that a girl given to the agents of the husband who is adulterous is punished with strangulation as if she were fully married.

Rami bar Chama cites a verse as the source of this ruling.

Rava in the name of R' Ami further clarifies this proof. ■

ily and there is no precedent to indicate that he can transfer this financial responsibility to her family. Furthermore, in the captivity case the reason his trick works is that once he divorces her she is no longer his wife and thus there is no mechanism by which to obligate him to redeem her from captivity. In a case of burial, he obviously cannot divorce her once she has died and she remains his wife until the time of resurrection, thus his obligation to provide his wife with a burial continues. Additionally, Poskim³ note that even erecting a monument is included in the husband's responsibility to provide his wife with a proper burial so it seems logical that burying her a second time, if necessary, is certainly included in his responsibility. ■

1. עי דברי השואל בשו"ת התשב"ץ ח"ב סי' קי"א.

2. שו"ת התשב"ץ הנ"ל.

3. עי אה"ע סי' פ"ט. ■

STORIES Off the Daf

Mitzvos by Stealth

"...שארה כסותה...ועונתה..."

Our daf continues to discuss various rights enjoyed by married women.

Despite the fact that secular Israeli culture resonates with negative attitudes regarding religious Jews, it is well known that Israeli בעלי תשובה can become religious very quickly. And while בעלי תשובה from chutz la'aretz who move too fast in their adoption of observance almost invariably have big setbacks, Israelis seem to manage with abrupt changes far better than their American counterparts. Such quick changes, however, sometimes give rise to unusual halachic questions.

A certain Israeli woman was once in a terrible quandary about the extent of her

exact monetary rights. Her husband was not interested in becoming religious and refused to consider squandering his money on religious articles. The husband wouldn't even spend a dime on mezuzos. His wife felt that if he only had tefillin to wear, it would encourage him to move closer to Judaism, but she also knew that there was no point in even broaching such a sensitive subject with her misguided husband. It could only complicate their marriage, since he would definitely refuse to purchase a pair.

The woman wondered if she was permitted to steal the money from her husband to purchase tefillin for him and then present them to him as if they had been a gift. Although her husband was not willing to spend money for her religious ideals, he didn't keep too careful an account of his money and she felt that he would never even notice.

When she asked her Rav if at least the mezuzah was part of her rights and whether she should engage in trickery to enable her husband to perform his duty to put on tefillin, the Rav was at a complete loss. Eventually this question reached Rav Yosef Shalom Eliashiv, shlit"a.

Rav Eliashiv answered, "Only beis din can force a man to perform mitzvos for which he is obligated, so tefillin should certainly not be purchased with his money. As for mezuzos, since we hold like the Mordechai who says that one who can't get a mezuzah may live in the house without mezuzos, she cannot steal from her husband to force him against his will to help her fulfill this mitzvah."

He concluded, "However, it is obviously a great mitzvah to provide her with the funds so that she will be able to procure mezuzos and tefillin!" ■

