

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah presents different declarations that may be made by a father and rules whether he is believed to make those declarations.

2) Clarifying the Mishnah

The Gemara inquires for an explanation of the difference between the Mishnah's first two cases.

One explanation for the Mishnah is offered but after numerous challenges the Gemara rejects this explanation.

R' Ashi offers an alternative explanation of the Mishnah that is based on a teaching of R' Huna.

3) **MISHNAH:** The Mishnah rules that a man on his deathbed is believed to declare that he has sons but not that he has brothers.

4) Reconciling the Mishnah with R' Nosson

It is noted that the Mishnah that implies that the husband is believed to permit his wife but not to prohibit his wife is inconsistent with R' Nosson who rules that a husband is even believed to prohibit his wife.

Rava suggests a way that the Mishnah could be reconciled with R' Nosson.

Abaye rejects this explanation and offers his own way of reconciling the Mishnah with R' Nosson.

Abaye elaborates, based on his explanation, on the point of dispute between Rabbi and R' Nosson.

5) **MISHNAH:** The Mishnah discusses the consequence of a man accepting kiddushin for a daughter without specifying which daughter he betrothed.

6) Kiddushin that cannot lead to relations

The Gemara thinks to infer from the Mishnah that kiddushin that cannot lead to relations is a valid kiddushin.

This inference is rejected.

7) Clarifying the dispute between R' Meir and R' Yose

The Gemara explains why it is necessary for the Gemara to present the dispute between R' Meir and R' Yose in both of the examples of the Mishnah.

The assumption of this explanation (namely, that R' Meir maintains that a person would allow himself into a position of uncertainty and R' Yose maintains that a person would not allow himself into a position of uncertainty) is challenged.

Rav is cited as asserting that the names in the Mishnah in Nedarim should be reversed.

A Baraisa is cited that supports the change of the names.

Abaye asserts that the dispute between R' Meir and R' Yose applies only when there are two sets of daughters.

R' Ada bar Ahavah begins to develop a challenge to Abaye's understanding of the dispute. ■

Distinctive INSIGHT

A person does not allow himself to enter into controversy

עד פני פסח רבי מאיר אומר אסור עד שיגיע

In his commentary to Nedarim (61a), Rosh notes that there are three different possible intentions a person might have when he says that he prohibits something upon himself until "פני פסח". He might mean that the item is prohibited until the series of days which constitute Pesach arrive, which simply means until the first day of Pesach arrives. Or, it might mean that he restricts the item upon himself until the final days of Pesach. If this was the case, the item would be prohibited upon him through the first and intermediate days of Pesach, but it would be permitted for him during the last days. The third possibility is that he means that the item is prohibited upon him until Pesach is completely over.

Rabbi Meir is of the opinion that a person does not allow himself to enter into a doubtful situation, so we interpret his remarks to prohibit himself only until Pesach begins.

ר"ן writes that there is another possibility to understand the intent of פני פסח, and that is that he is prohibiting the item until the last moment before Pesach ends. Once again, based upon Rabbi Meir's rule that a person would not willingly subject himself to controversy, we interpret his actual intent to be that the item is prohibited only until Pesach begins.

According to the conclusion of our Gemara, Rabbi Meir and R' Yose disagree regarding the meaning of "פני פסח," but they agree that a person generally do not enter into doubtful situations. R' Meir says that "פני פסח" means when Pesach begins, while R' Yose contends that it means when Pesach is ending. The rule is that the halacha follows R' Yose when he argues with R' Meir, so when a person prohibits an item from benefit until פני פסח, we hold that it is restricted from him until the end of Pesach. The Gemara in Nedarim seems to conclude that the opinions should be reversed, and it is R' Yose who says that the item would be prohibited only until Pesach begins.

The poskim deal with how to deal with these conflicting sugyos. Rambam (Nedarim 10:17) rules that the item is prohibited until Pesach arrives (according to R' Yose in the Gemara in Nedarim), as the sugya as it appears in its main Gemara is more reliable. Ramban and Rashba rule according to R' Yose in our sugya, where the opinions do not have to be reversed. ■

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 By Mr. and Mrs. Boruch Weinberg
 in loving memory of their grandfather
 ר' פסח בן ר' יצחק, ע"ה

HALACHAH Highlight

A man's reliability to declare on his deathbed that he has a brother

מי שאמר בשעת מיתתו ... יש לי אחים אינו נאמן

Someone who declares at the time of his death... "I have brothers," is not believed

There was once a woman who married a Jewish soldier who was originally from a distant land. They were married for a number of years when he became very ill. Before he died she asked him whether he has any relatives and he told her that he has a brother but doesn't know him since he was conscripted into the army when he was young but he did recall the name of his hometown. After the man died his wife began searching for this "brother" and eventually found someone named Shlomo the son of Aharon Churlak and she knew that her father-in-law's name was Aharon Churlak. When she approached him he initially denied any association with the deceased but eventually "admitted" that he is her brother-in-law but will not do chalitzah unless she pays him an exorbitant sum of money. When asked by the local rabbi about his family Shlomo related to him that he had a brother named Chaim Leib which matched the name of the widow's deceased husband but he repeated to the rabbi that he would not do chalitzah unless he received the sum of money he wanted. Due to the complexity of the matter and all of the different issues that were involved the question was posed to Rav Avrohom Bornstein, the Avnei Nezer, for guidance.

Avnei Nezer¹ began his comments by quoting our Gemara. The Mishnah states that a man who, on his deathbed, relates that he has a brother, thus subjecting his wife to yibum, is not

REVIEW and Remember

1. What are the two ways to understand R' Akiva's opinion regarding לחייבי לאוין?
2. What is R' Nosson's position that seems at odds with our Mishnah?
3. Why are a man's adult daughters not included in the doubt when he accepted kiddushin without specifying which daughter he was betrothing?
4. Why was it necessary to present the dispute between R' Meir and R' Yose in two cases?

believed. The Gemara explains that the Mishnah refers to a case where there was no presumption that this man had sons or brothers. Accordingly, the soldier who died is not believed to declare on his deathbed that he has a brother. One could argue, continues Avnei Nezer, that the Gemara refers to a case where we have reason to assume that the deceased did not have a brother as opposed to the case in question where the soldier came from a distant land and no one knew his background to even presume that he did not have a brother. Perhaps in a case such as this the man would be believed when he declares on his deathbed that he has a brother since it does not conflict with a previous presumption. Avnei Nezer demonstrates, however, from a number of different sources that the Mishnah's ruling that a man is not believed to declare that he has a brother applies whether or not there was grounds for that assumption. ■

1. שו"ת אבני נזר אה"ע סי' ר"ט באריכות. ■

STORIES Off the Daf

The two brothers

"לא שביק איניש מצוה דרמיה עליה..."

There is a long-standing dispute between the gedolim of the previous generation as to how old one should be when he marries. The Steipler, zt"l, followed the Chazon Ish, zt"l, who held one should marry young. Similarly, Rav Yosef Chaim Sonnenfel, zt"l, would do everything in his power to push young men to marry before twenty. Other gedolim, such as Rav Chazkel Levenstein, zt"l, held that one should wait until he has first attained mastery in

Torah even if this meant the young man would marry comparatively late.

A certain man had two sons in shidduchim. The younger one had found the perfect girl and the two were ready to get married. The trouble was that the older brother felt very embarrassed that his younger brother was ready to get married before him.

For his part, the younger brother was willing to wait and so was his prospective bride. The problem was that the father wished his son to marry before twenty. Since the young man was just two months shy of twenty, it seemed unlikely that if he waited for his brother that he would make it. On the one hand, perhaps it was worth

waiting to avoid embarrassing his beloved older brother.

The father decided to defer the question to Rav Moshe Feinstein, zt"l. He answered, "It is obvious to me that the younger brother need not wait to marry. A clear proof to this is found in Kiddushin 64. There, the Gemara states that arranging betrothal for his younger daughter who is still a minor in fulfillment of the mitzvah, takes precedence over arranging betrothal for his older daughter who is already past the age of majority. If there was some kind of prohibition against marrying the younger off before the older, the Gemara would have said something!"¹ ■

1. אגרות משה, חלק אבן העזר ב', סימן א'