

OVERVIEW of the Daf

1) Presumption of maternity

Reish Lakish and R' Yochanan disagree whether children's attachment to a woman, which proves maternity, is reliable even for matters of genealogy.

It is noted that R' Yochanan's position that it is considered reliable is consistent with his perspective on presumptions (חזקה). The three cases where R' Yochanan relies on presumptions are explained.

Related to the third case the Gemara presents another disagreement between R' Yochanan and Reish Lakish concerning the question of burning terumah based on a presumption.

A Baraisa is cited in support of R' Yochanan's position.

R' Yehoshua ben Levi elaborates on the topic of the Baraisa.

This qualification is further clarified.

2) MISHNAH: The Mishnah presents some of the parameters related to the prohibition against seclusion between men and women.

3) Clarifying the Mishnah

The reason a man may not go into seclusion with two women is explained.

The Gemara identifies a Biblical reference to the prohibition against seclusion.

The plain meaning of the verse is explained.

4) Seclusion between a man and two women

It is suggested that the Mishnah's ruling that a man may not go into seclusion with two women is inconsistent with Abba Shaul's position.

This suggestion is rejected and the Gemara records the exchange between Abba Shaul and Rabanan.

5) Seclusion between a woman and two men

R' Yehudah in the name of Rav maintains that the Mishnah's lenient ruling that a woman may go into seclusion with two men does not apply to men of low moral character.

A related incident is cited.

Further proofs to this assertion are cited but the proof from a Baraisa is rejected. ■

Distinctive INSIGHT

Seclusion of one man with two or more women

לא יתייחד אדם עם שתי נשים

Rashi explains that it is specifically prohibited for a man to be in seclusion with two women, but it would be permitted if he is with three or more women. The reason two women are a problem with one man is that one of the women will not be inhibited from sinning, as she will think that her friend will also sin. When there are more than two women, no one of the women will sin. Therefore, Rashi holds that the number "two women" in the Mishnah is a technically binding number. Rosh, however, explains that when there are two women, if both sin, each will remain silent on her behalf and for her friend, so neither is afraid to sin. When there are more than two, we assume that if anyone sins, the word will get out, or the one man will not be able to sin with all of them, so the one(s) who do not sin will not be ashamed to reveal that others did sin. Therefore, when there are three or more women, no one will sin.

Ramban disagrees, and he explains that seclusion is prohibited even with more than two women. He argues with Rashi's basic premise that we are only concerned regarding two women that each one is uninhibited, assuming that the other woman will also sin. The reason for this prohibition, according to Ramban, is that in a situation of seclusion, it is easy for a woman to rationalize and sin, and this reason applies even regarding more than two women with one man. Rambam (Isurei Bi'ah 22:8) and Shulchan Aruch (E.H. 22:5) rule according to Ramban, and disallow seclusion of one man even if there are more than two women.

רד"ל notes a practical difference between the approach of Rashi and that of Ramban in the case of seclusion with two women, which is prohibited. Let us consider a case where one of the women has her husband in town, which is normally a reason to allow seclusion. Does her presence result in the seclusion's no longer being a problem for the second woman? According to Rashi, this would be permitted. The woman whose husband in town will not sin, so the other woman will also not sin. It is only when they both sin and therefore keep each other's secret that we have a problem. According to Ramban, though, women are easily tempted to sin when in seclusion, regardless of whether other women with her will sin or not. This scenario would still be prohibited. ■

HALACHAH Highlight

A woman going into seclusion with two or more men

אבל אשה אחת מתייחדת עם שני אנשים

But one woman is permitted to go into seclusion with two men

Rambam¹ writes that it is prohibited for a woman to go into seclusion with many men. Magid Mishnah² notes that Rambam's ruling contradicts the explicit ruling of the Mishnah that permits a woman to go into seclusion with two men. He explains that according to Rambam the Mishnah's ruling applied only when the men who are in seclusion with the woman are כשר—reliable, upright individuals but nowadays that people are not presumed to be upright in these areas (פרוצים) we must exercise greater caution and thus it is prohibited for a woman to go into seclusion with many men. Rambam, however, seemingly contradicts this ruling since elsewhere he rules³ in accordance with the lenient position of Tanna Kamma in the Baraisa that a baby that dies before he is thirty days old (רח"ל) is taken for burial by one woman and two men. Kesef Mishnah⁴ asks, since Rambam ruled that nowadays we do not permit one woman to go into seclusion with two men why does he permit a woman and two men to take a newborn baby for burial? Seemingly, he should require many men and many women to travel together to the burial in order to avoid concerns of seclusion.

Kesef Mishnah answered that Rambam's stringent ruling

STORIES Off the Daf

"A man must not seclude himself with two women..."

לא יתייחד אדם עם שתי נשים

Many people are sadly unaware of certain fundamentals of the laws of yichud. In order to exhort people to keep these important halachos, Rav Menashe Klein, shlit"א, once pointed out some frequent mistakes. "Some people mistakenly believe that one violates yichud only in a structure that has walls. They believe that being secluded in a field and other open spaces is permitted. Although in fields and places where people are often passing there is no yichud, in forests and other places which are off the beaten path, the prohibition of yi-

chud definitely applies. Similarly, the prohibition applies to anyplace where people seldom go.

"The truth is that a field or open space is really more serious than a spot within a city. This clearly emerges from the Gemara in Kiddushin 80-81 and is the halacha in Shulchan Aruch. Although in a city a woman may be secluded with two kosher people, outside of a city, she requires three. In light of this, it is clearly a very bad thing for a boy and girl to meet on a date in a very secluded place. Although they may be dating for the sake of heaven to determine if the other party is a fitting match and they mean no harm, they are actually violating the halacha."

He continued, "This is especially prevalent during the summer when people are in the country. People often meet

REVIEW and Remember

1. How strong are halachic presumptions?
2. Which is stronger: רוב or חזקה?
3. What is the reason a man may not go into seclusion with two women?
4. When is it prohibited for a woman to go into seclusion with two men?

regarding one woman and two men applies only when the three of them will be secluded in a closed room but when the woman and the two men are traveling to the cemetery in the open, Rambam's stringency does not apply. Lechem Mishnah⁵ suggests that the leniency is due to the fact that the mother is in a state of אנינות. Just as we see that Abba Shaul is lenient due to אנינות and allows even a single man to be in seclusion with two women, so too, Tanna Kamma will allow a single woman to travel together with two men. ■

1. רמב"ם פכ"ב מהל' איסורי ביאה ה"ח
2. מגיד משנה שם
3. רמב"ם פי"ב מהל' אבל ה"י
4. כסף משנה פכ"ב מהל' איסורי ביאה ה"ח
5. לחם משנה פי"ב מהל' אבל ה"י ■

to hike or picnic in the forest. This is a serious problem, especially at night when there is a clear violation of yichud. I deeply hope that the parents and teachers of these children will distance their children from such crooked paths which do not lead to Hashem. In our generation, especially in the U.S. where people tend to do exactly as they please, one who wishes to have good children and kosher descendants will surely be careful to contemplate the paths that our ancestors always tread. There is no other tried and true method of protecting the Jewish people from assimilation with the gentile nations, חס ושלוש. Those who care about remaining a part of the Jewish people will surely be circumspect regarding such essential halachos!"¹ ■

1. משנה הלכות, קידושין דף פ'