

*לע"נ Yevamos Perek Gimmel is Dedicated*

*מרת רבקה בת ר' אליהו ז"ל*

*הח"ר אברהם בן ר' מאיר הלוי ז"ל*

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***THE HAKUK EDITION***

***ENGLISH TOPICS ON THE DAF***

***Dedicated L'Refuah Shlaima for Yaakov ben Victoria***

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## Daf Hashovua Yevamos Daf 29

### Aninus and aveilus for an arusah

The Gemara here mentions halachos about an arusah, a woman who had kiddushin done with her but not yet nissuin. (We do kiddushin and nissuin together at a wedding, so it is less relevant. But we will see a teshuvah in which it was.) Among them the Beraisa lists that her husband does not have the status of onein if she passes away, and he cannot be metamei to her if he is a Kohen. An onein cannot eat kodshim and maaser sheni since he is not in a happy state. In our days, aninus constitutes the period between death and burial, in which the mourners do not make brachos or daven, but hilchos aveilus do not yet begin.

Does aveilus apply to him?

The **Rambam** (Hilchos Avel 2:3) and **Shulchan Aruch** (Y.D. 374:4) indeed add aveilus to the list. In the commentary **R' Avrohom min Hahar** he says that if he doesn't become an onein, for sure he isn't misabel over her. Apparently, he regards aninus as a more central and overarching obligation than aveilus.

**Rabbi Shlomo Eiger** in his Sefer Ha'ikkarim (Onein v' Avel Anav 7) challenges this assumption of the poskim. Maybe only aninus doesn't apply until nissuin, but aveilus does? We do find them separated from each other, like the Mishnah in Sanhedrin (46b) states that when Beis Din puts someone to death, the relatives are onenim but not aveilim. He asks another question, that the poskim derive from this halacha that if one marries a lady forbidden to him (with a lav), he also won't be an onein or avel when she dies. But how can they learn that from an arusah – she is not yet fully married, while this one is?

The two questions answer each other. Obviously, aninus and aveilus go together. The only exception is harugei Beis Din, and the Gemara says that it is to dishonor the niftar and thereby gain him kapara for his sins. Aninus is different, as the Mishnah says it is “only in the heart,” not outwardly noticeable, and wouldn't cause kapara with its absence (Rashi). Alternatively, Yad Rama explains that the Torah doesn't forbid feelings of anguish over his death since it is natural and too difficult to control.

Therefore, since an unsuitable wife doesn't invoke aveilus and a kohein husband can't become tomei to her, no aninus would apply either.

He concludes with another application of this rule. In the unfortunate instance of someone committing suicide, there is no aveilus. So too, there would not be aninus.

The **Maharsham** (Vol. 2:8) penned a teshuvah about widows who needed to be married to avoid eviction from their homes, when the government made a law that no unmarried people could live within a certain distance from the border. They then found old men and were wed by the government-appointed Rabbis, with chupah and kiddushin, but clearly never

intended to live together. What happens when the men pass away – do they need to sit shivah?

Some wanted to compare this to a case discussed by earlier authorities, of where a couple were planning a divorce and then one died. The **Pischei Teshuva** in Even Ha'ezer (90:8) cites the Maharshal's ruling that the spouse does not need to do aveilus. So too here, they argued, since their marriages were not intended to be real. The Maharsham takes it even further; even if you'll argue in the other case and require aveilus, here is more lenient. That story was where they were properly married and then considered divorce. Here, the marriage never really began. Finally, he considers it like an arusah, since the whole marriage was just a legal loophole – and one isn't misabel for an arusah.

What about a shomeres yovom, someone in line to do yibum, who dies? Does her yovom need to do aveilus? It's a machlokes haposkim. The Pischei Teshuva (Y.D. ibid) seems to side like the opinions that he does not, as the Birkei Yosef, but Rabbi Akiva Eiger states that he does.