



THE DAF **MATTERS** **שבוע**

שבת קודש פרשת כי תשא | מסכת יבמות דף מ"ב

לע"נ ברוך בענדיט וברכה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

לע"נ ר' דוד בן ר' נחום
לע"נ חיה לאה בת נפתלי הרצקה

INSIGHTS FROM OUR CHABUROS

The Requirement to Wait Three Months Before Remarrying

בשלמא תמתין ב' חדשים ותנשא לא, דהיינו ספיקא אי בר
תשעה לקמא וכו'

The Gemara determined that in order to clarify the paternity of a child which might be born, a woman must wait three months after the death of her husband before remarrying. The Gemara then analyzes why a three-month period is necessary in order to satisfy this question. It is clear that one month is not enough, because in this case if a child will be born seven months later, we would not know if it was an eight-month child of the first husband or a seven-month child of the second husband. The Gemara probes, however, to determine why waiting two and a half months would not be sufficient. If a child is born seven months later, it is the child of the first husband (the Gemara assumes that if it is the child of the first man, it would not have been born after nine and a half months). The Gemara answers that there is still a possibility of uncertainty, in case the child is born six and a half months later. We would not know if it is a seven-month child of the second husband (which can be born early) or if it is a nine-month child of the first husband. The Gemara requires a three-month wait not only for a yevama following the death of her husband, but any woman who wishes to remarry must also wait three months before entering נישואין or אירוסין. Yet there is a difference between the reason why a yevama must wait as opposed to the reason why all other women must wait before getting remarried. A yevama is at risk of marrying her husband's brother without it being for the mitzvah of yibum. She must wait three months to determine that she is not pregnant. Whether a woman is pregnant can generally be noticed at three months. If she is pregnant at this point, yibum would be inappropriate, because she may give birth to a viable child, and marrying her husband's brother would be a sin of marrying an ערוה. However, for all other women, the three-month waiting period is not in order to determine whether it is permitted for her to marry the second husband. Even if she is pregnant, the second marriage is not prohibited, even within three months. Most pregnancies are outwardly noticeable at three months, and we could assume that if these signs surface, the child is from the first husband. However, we do not want to rely upon a רוב to determine paternity, so we require a three-month waiting period to solve this uncertainty.

STORIES OFF THE DAF

שמה ישא אחרתו מאביו The Adopted Child

Not so long ago, there were two brothers who loved each other deeply. Each wished the other only the best. Unfortunately, one brother didn't have any children. As the years went by, the second brother was blessed with one child after the other. When it was time for family simchas, it was painfully clear just how badly the first brother longed to have children. And the brother who had been blessed with a large family was acutely attuned to his beloved brother's distress. The one who had never had children tried every available avenue, he and his wife tried every segulah, but nothing worked. When the second brother was blessed with his eleventh child, he decided to take action. After the birth, the father said to his wife, "You see how Hashem has showered us with a wonderful family. Would you agree to give this one child to my only brother and his wife to raise? We live right near one another; we would see our son all the time. What a great mitzvah we could do by allowing my brother and his wife to raise a child!" After a long and heartfelt discussion, the couple decided to give their eleventh son to his uncle and aunt, to be raised as their own child. As the child grew up, no one revealed to him that he was really his beloved "aunt and uncle's" son. He had no idea that he was not the natural child of the sweet couple that had raised him. Even on his wedding day, he was completely oblivious of his true parentage. When someone mentioned this to Rav Chaim Kanievsky, shlit"a, he was firm in his disapproval. "This action was not proper since there is a halachah of הבחנה as we see in Yevamos 42. Unknowingly, he is prone to make very serious errors." Someone else piped up and said, "Perhaps a second reason why they must tell him is to enable him to do the mitzvah of honoring his real parents? On second thought, maybe the fact that the child is doing his parents' will by being the devoted child of the aunt and uncle is sufficient?" Rav Kanievsky spoke up and said, "But the young man could be doing the mitzvah of kibbud av so much better by actually honoring his parents in speech and action!"

PARSHA CONNECTION

In this week's daf we learn that a baby that's born after seven months can survive even if it's not a "full seven months." In this week's Parsha we have an example of a timeframe which is "complete," when Moshe Rabbeinu went up to receive the Torah, he was in heaven for a FULL 40 days. Those who thought that he was delayed miscalculated because they did not consider the need for "full" days. What was the necessity of 40 days? ויתן אל משה ככלתו לדבר אתו בהר סיני וכו' it says: פרק לא פסוק י"ח. The Midrash writes that Hashem was teaching Moshe the Torah every day, and after 40 days, Hashem gave him the Torah as a gift. If he was meant to receive the Torah as a gift, why would Moshe need to study it for 40 days? The answer is that the 40 days were necessary to transform Moshe into a complete spiritual being (the maximum possible for a human), which then enabled him to retain the gift which was granted to him after studying with Hashem for 40 days. The 40 days are the same 40 days in which an embryo is formed, and Moshe Rabbeinu, was being formed into a new being! (Based on the Alshich Hakadosh on the Parsha).

MUSSAR FROM THE DAF

Guaranteed Support

The Gemara teaches that a woman who is nursing cannot marry. We are concerned that she may become pregnant, and she may not be able to produce enough nourishment for her baby while she is pregnant. This could then lead her baby to starve to death. The Gemara then asks, why are we not concerned about this scenario with any husband (i.e., he should be forbidden from engaging in marital relations until the child is weaned from his mother). The Gemara answers that any husband (who is obligated in the mezonos of the child) will buy more food for the baby if the need arises. Because this child, however, is not his, the new husband is not obligated in the mezonos of the child, as a result he will not buy more food for the baby in such a situation. The question is are we dealing with Reshaim? How could a person not buy food for a starving child?

To help understand pshat in this gemara, we have to understand a klal from Rav Moshe Feinstein זצ"ל.

R' Moshe (Igros Moshe Orach Chaim 4, 48) brings a proof from the Gemara in Niddah 31b that since a husband is halachically obligated to support his wife, he is guaranteed to also always be able to earn enough to provide for her (assuming he does his hishtadlus). Perhaps that is the pshat in our Gemara. Because the natural father is obligated in the mezonos of his son, Hashem will always provide enough food for the baby in case the mother cannot properly nourish the child when she is pregnant. However, this new father, since he is not obligated in the mezonos of this child, Chazal realized there may be a situation where there isn't enough parnasa in the home to provide for the child, and the baby might starve when the mother cannot properly nourish the baby when she is pregnant.

This is a great lesson to remember. If we realize that anything we are halachically responsible for (i.e., taking care of our wives and kids) we are guaranteed to have the means to fulfill those responsibilities, it can bring a person much needed Menuchas Hanfesh.

POINT TO PONDER

The Gemara asks why does a divorcee or widow needs to wait three months to ascertain whether she is pregnant if we can check by the way she walks. Rashi explains that we ask her to walk on sand and by looking at the footprints in the sand we can know if she is pregnant. The גמרא answers that she would hide the pregnancy so that her child will inherit her husband estate. Since we are looking at her footprints in the sand, how can she hide the pregnancy?

Response to last week's Point to Ponder:

According to Rav and Rav Chanina who rule that we say יבמה is there still a Mitzvah of Yibum?

Although one may assume that when the יבמה's sister dies, and the יבם can now do Yibum, the Mitzvah is still there and when the Gemara says that she reverts to the original status it means Yibum, the רשב"א writes that the Mitzvah does not come back. Accordingly, when the Gemara says that he can marry her, it means a regular marriage not Yibum. Other Rishonim argue and maintain that the only way for a brother to marry his sister in-law is through the Mitzvah of Yibum.

HALACHA HIGHLIGHT

Waiting Three Months to Remarry After Receiving a Get

דרב אמר משעת נתינה ושמואל אמר משעת כתיבה

Rav maintains that a divorcee must wait three months from the time she was delivered and Shmuel holds that the three months are calculated from the time the גט was written.

There was once a woman who moved to Israel, leaving her estranged husband in Argentina. A year later she received her גט which was dated three months prior to when it was delivered. This woman wanted to marry a man who refused to wait three months from the date the גט was delivered and threatened that if he would be required to wait three months before marrying, he would look for another bride. The question presented to Beis Din was whether this woman could receive permission to remarry immediately without waiting the requisite three months.

The Gemara Gittin¹ presents a more detailed analysis of this dispute between Rav and Shmuel concerning the calculation of when to begin counting the three months needed between marriages. A Baraisa that supports each of their respective opinions is cited. Rosh² notes that Rif rules according to Shmuel, namely that the three months are calculated from the moment she was written. Rosh questions the rationale behind Rif's decision to rule according to Shmuel, when the halacha should follow Rav since this is not a case involving monetary matters. Rosh also observes that the common custom in Germany and France was to follow the strict ruling of Rav and calculate the three months from the time of the delivery of the גט. Rambam³ rules leniently like Shmuel; consequently, Shulchan Aruch⁴ followed the majority opinion on the matter and ruled that the three-month waiting period is calculated from the time the גט was written. Rema⁵, however, mentions the dissenting opinion of Rosh and writes that it is appropriate to follow the strict position.

Rav Ovadiah Yosef⁶ cites a number of Poskim who write that the intention of Rema was not to rule that halacha is in accordance with the opinion of Rosh, but rather that one should be strict like Rosh. The difference between these two approaches is that the stringency of Rosh does not have to be followed in b'dieved circumstances and it can be said that this incident is considered a pressing circumstance; therefore one can rule leniently that the three months are calculated from the time the גט was written.

1. גמ' גיטין יח
2. רא"ש גיטין ב"ב סי' ו'
3. רמב"ם פ"א מהל' גרושין הי"ט
4. שו"ע אה"ע סי' יג סע' א'
5. רמ"א שם
6. שו"ת יביע אומר ח"ו אה"ע סי' ב'

ר' יוסף שמואל שמעלקא Shelly Mermelstien לע"נ has been dedicated in יבמה. For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Gutterman, please visit our website, dafaweek.org, or download the app

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