



נדרים דף ע"א

English Halacha Topics

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Waiting before Re-Marriage

The Daf opens with the Mishnah of a naarah who becomes betrothed with erusin, gets divorced, then remarried and divorced, all in the same day. The final husband can annul her nedarim together with her father.

The Shitah Mikubetzes wonders how this case can happen. The problem with it that after a wife becomes unmarried, she must wait for 3 months before she gets remarried. The Gemara calls this period havchanah, meaning “distinguishing,” as it serves to distinguish between the two marriages, as we’ll explain soon. So, a naarah who gets divorced certainly can’t get remarried the same day? The Shitah answers that the Mishnah refers to a case in which she transgressed this halacha and got remarried anyway. Post facto, we allow her to stay married. Let’s discuss the topic of havchanah.

The Gemara in Yevamos daf 41 states that a yevama cannot do yibum or chalitza until 3 months have passed since her husband’s death. So too, every women must wait after her husband’s passing. The reason a yevama must wait is to preclude the concern that she is pregnant. If she then gives birth, she can’t do yibum, and thus her brother-in-law is forbidden to her upon penalty of karess. To ascertain that she’s not with child, she must wait 3 months (at which point it would be visible).

The reasons for a widow – or divorcee – are different. Here, if she gives birth shortly after remarriage, we wouldn’t be able to know if the child is from her first husband or from the second. This would be a flaw in the yichus, genealogy, of a Jew. Rava adds that problems might arise if we don’t know who the child’s father is. For example, the child may think he’s from the second marriage and marry his half-sister (from the first husband) who’s really is his full sister (because he’s really from the first marriage).

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This halachah is codified in Shulchan Aruch (E.H. 13:1) and explicitly applies even to a “divorcee or widow from erusin... even a child or elderly person who can’t give birth...” Only engagement is permitted, says the Rema, as long as they are never alone. (See Pischei Teshuvah if it is midioraisa or midirabonon.) This also applies to converts who were already married beforehand (Seif 5). This is necessary to “distinguish between seed which was formed in impurity, to that which was formed in purity,” whether the child is from Jewish parents or not.

However, the Acharonim discuss cases in which havchanah is waived. The Dagul Merivava maintains that if an elderly woman converts with her husband, they do not need to wait. (So too see Mishnah L’Melech, Gerushin 11:21 and Birkei Yosef Y.D. 269:3.) Rav Moshe Feinstein zt”l added that a woman who converts while menstruating similarly doesn’t need to wait, since she certainly is not pregnant (Igros Moshe E.H. 2:5).

Some Poskim are lenient in cases of conversion if the waiting time would cause extreme difficulties or disputes. Several sources for permission in extenuating circumstances are Shu”t Tuv Taam V’Daas 230, Taalumos Lev 3:30, and Melamed L’Hoil E.H. 10.

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