

וכי רבי לא שנאה רבי חייא מנין לו?

If Rabbi Yehuda HaNasi had not taught that ruling in the Mishna,^N from where would Rabbi Hiyya, his disciple and redactor of the *baraitot*, have known it? Since the source of the unattributed ruling in the *baraita* is certainly the dispute recorded in the mishna, its lack of attribution in the *baraita* only reflects the fact that Rabbi Hiyya ruled in accordance with that opinion, but that cannot be used to indicate that it is the accepted *halakha*.

אמר ליה: והא תנן: מסרק של פשתן שניטלו שיניו, ונשתיירו בו שתים – טמאות, ואחת – טהורה. וכולן שניטלו אחת אחת בפני עצמן – טמאות.

Rabbi Nahum questioned the principle that the *halakha* is always in accordance with an unattributed ruling in a mishna and said to Rabbi Hiyya: **Didn't we learn in a mishna (*Kelim* 13:8): A comb made for combing beaten flax^H in preparation for spinning, from which its teeth were removed^N and only two of its teeth remained in it, is still suitable for combing. It is therefore considered a utensil and will become ritually impure if it comes in contact with ritual impurity. However, if only one tooth remained, so that the comb was no longer suitable for combing, it is no longer considered a utensil and so will remain ritually pure even if it comes in contact with ritual impurity. And with regard to any of the teeth that were individually removed on their own, since they do serve a purpose, e.g., they may be embedded and used as hooks, they are considered utensils and can become ritually impure.**

של צמר שניטלו שיניו אחת מבינתים – טהור, נשתיירו בו שלש במקום אחד – טמא, היתה החיצונה אחת מהן – טהור. ניטלו שנים ועשאן למלקט – טמאות, אחת והתקינה לנר או למיתוח – טמאה.

A comb made for combing wool^{BHN} from which every other one of its teeth were removed, so that no two consecutive teeth remained in place, is no longer suitable for combing and so will remain ritually pure. If three teeth remained in it in a single place so that it could still be used for combing, then it could become ritually impure. However, if one of those teeth was the external frame of the comb itself, then it could not function as a comb, and so it will remain ritually pure. If two of the teeth were removed and made into small pincers, then they could become ritually impure. Alternatively, if one of the teeth was removed, and it was prepared in a manner that made it suitable for use in cleaning an oil lamp^N or for stretching^N ropes, then it would be considered a utensil and could become ritually impure.^H

HALAKHA

A comb made for flax – מסרק של פשתן: With regard to a comb made for combing flax, from which the teeth were removed: If two teeth remain, the comb remains susceptible to ritual impurity, but if only a single tooth remains it is no longer susceptible to ritual impurity (Rambam *Sefer Tahara, Hilkhot Kelim* 11:4).

A comb made for wool – מסרק של צמר: With regard to a comb made for combing wool, from which the teeth were removed, if three teeth remain in a single place, the comb remains susceptible to ritual impurity. However, if one of the three was the external frame, it would not be susceptible to ritual impurity. The *Kesef Mishne* questions why the Rambam

rules in accordance with this mishna even though the Gemara states that it is not ruled as *halakha* (see NOTES; Rambam *Sefer Tahara, Hilkhot Kelim* 11:3).

The teeth of the comb – שיני המסרק: If two teeth of a comb were removed and made into pincers, or if a single tooth was removed and prepared for an oil lamp or for stretching, then they are susceptible to ritual impurity. If that tooth was large and thick, then even if it was not specially prepared, it is susceptible to ritual impurity. This is in accordance with the resolution suggested by Rav Pappa (Rambam *Sefer Tahara, Hilkhot Kelim* 11:3).

NOTES

If Rabbi Yehuda HaNasi had not taught it, etc. – וכי רבי לא: The Gemara assumes that since Rabbi Hiyya was Rabbi Yehuda HaNasi's disciple, it does not stand to reason that he would formulate an opinion as though it were the conclusive *halakha* when Rabbi Yehuda HaNasi clearly decided not to teach that opinion in such a way (Rav Sherira Gaon). The Maharik adds that Rabbi Yehuda HaNasi had a far greater breadth of knowledge than Rabbi Hiyya, and so it is improbable that Rabbi Hiyya would be aware that a certain opinion had been accepted as the *halakha* if Rabbi Yehuda HaNasi was not.

A comb whose teeth were removed, etc. – מסרק שניטלו שיניו וכי: Utensils are susceptible to ritual impurity only when they serve a useful purpose. Even if they break and no longer serve their original purpose, if they serve some other useful purpose they can still become impure. The import of this mishna is to define at which point a comb is considered broken to the extent that it no longer serves any useful purpose and therefore is no longer susceptible to ritual impurity.

Combs made for wool and flax – מסרקי צמר ופשתן: The early commentaries describe the differences between the two types of combs: The Rivan explains that the teeth of a flax comb are

BACKGROUND

Combs for wool and flax – מסרקי צמר ופשתן: From the various descriptions in the Mishna and Talmud, it would appear that the comb made for flax was a large instrument with which the stalks of flax were combed in order to prepare them for spinning. The body of the comb and its external teeth were constructed from wood, while the internal teeth were metal nails. It is for this reason that no combs of this kind remain from that period, because wood generally decomposes, at which point any nails fall out.

There are differing opinions concerning the structure of the comb made for wool. Some explain that it was made in a similar fashion to the one for flax, the only difference being its thickness and the proximity of the teeth. Others, however, explain that the comb made for wool was an entirely different tool. It was constructed from a wooden board, or a pair of wooden boards, also known as cards, upon which several rows of metal nails were fastened. The combing was achieved by dragging the wool over the boards. According to this description, the Gemara's distinction between internal teeth and external teeth refers to the different rows of teeth.



Dried flax with threshing comb



Pair of wool cards

narrower than those of a wool comb. However, the Meiri claims the opposite to be true and adds that they are also distinct in their form and structure.

It was prepared for an oil lamp – התקינה לנר: Rashi suggests that this means that the tooth of the comb can be used to clean out the lamp. The Rivan suggests that a wax candle could be attached to it.

For stretching – למיתוח: The Rambam, in his commentary on the Mishna on *Kelim* 13:6, explains that this term refers to wrapping a thread around a stick to make the thread easier to use.

NOTES

But we maintain that the *halakha* is not in accordance with that mishna – וְקִיַּמָּא לִן דְּאִין הִלְכָה כְּאוֹתָהּ מִשְׁנָה – Despite the Gemara's claim, the Rambam rules in accordance with this mishna. In addition, it appears that Rabbi Shimon Shimshon also rules in this manner. The *Yam shel Shlomo* explains that although the Gemara identifies the various difficulties inherent in the mishna, the mishna is nevertheless ruled as *halakha*, and ultimately the Rabbis disagree with Rabbi Shimon only on a single point, i.e., the question of ritual impurity for the teeth removed from the comb. Rabbi Shimon holds that these do not require preparation in order to be susceptible to ritual impurity, while the Rabbis hold that they do require preparation (see *Keren Ora* and *Arukh LaNer*).

BACKGROUND

Those who are exact – דְּיוֹקְנֵי: Apparently, there were a number of Sages who were relied upon to establish the precise formulation of the mishna. Rav Sherira Gaon explains in his famous letter concerning the composition of the Mishna that this is why the Gemara is often willing to delete parts of a mishna or even an entire mishna on occasion, as sometimes the current version is erroneous or was not transmitted reliably.

וְקִיַּמָּא לִן דְּאִין הִלְכָה כְּאוֹתָהּ מִשְׁנָה!
אָמַר לֵיהּ: בְּרַמְבַּם דְּהֵימָּא, דְּרַבִּי יוֹחָנָן
וְרִישׁ לְקִישׁ דְּאֶמְרֵי תְרוּוּיָהּ: זֶוּ אֵינָהּ
מִשְׁנָה.

מַאי טַעְמָא? אָמַר רַב הוּנָא בְּרַמְבַּם
מִשְׁמִיָּה דְּרַב אִידִי בְּרִיָּה דְּרַב אִיקָּא:
מִשּׁוּם דְּקָשְׂיָא רִישָׁא לְסִפָּא. דְּקָתְנִי:
שְׁלֹשׁ צִמְרֵי שְׁנִיטְלוּ שִׁינָיו אַחַת מִבִּינֵיהֶם –
טָהוֹר, הָא נִשְׁתַּיְרוּ בּוֹ שְׁתֵּים בְּמִקּוּם
אֶחָד – טָמֵא, וְהָדָר תֵּנִי: נִשְׁתַּיְרוּ בּוֹ
שְׁלֹשׁ – טָמֵא, שְׁלֹשׁ – אֵין, שְׁתֵּים –
לָא!

וּמַאי קוּשְׂיָא? דְּלָמָּא הָא בְּגוּוּיָתָא הָא
בְּבְרִיָּתָא!

אֵלָּא מִהֲכָא, דְּקָתְנִי: וְכוּלָּן שְׁנִיטְלוּ
אַחַת אַחַת בְּפִנֵי עֲצָמֵן טְמֵאוֹת, וְאֵף עַל
גַּב דְּלָא הִתְקִינָהּ. אֵימָא סִפָּא: אַחַת
וְהִתְקִינָהּ לִנְר אוֹ לְמִיתוּחַ – טָמֵא.
הִתְקִינָהּ – אֵין, לָא הִתְקִינָהּ – לָא!

אָמַר אַבְיִי: וּמַאי קוּשְׂיָא? דְּלָמָּא הָא
בְּקָתְנִיָּהּ, הָא בְּלָא קָתְנִיָּהּ.

אָמַר רַב פַּפָּא: וּמַאי קוּשְׂיָא? וְדָלְמָא
הָא – בְּקָטְנִיָּתָא, הָא – בְּאֵלִימָתָא.

אֵלָּא: מִשּׁוּם דְּמִסְיָמִי בָּהּ דְּיוֹקְנֵי: זֶוּ
רַבִּי שְׁמַעוֹן.

שָׁלַח רַבִּי חִיָּיָא בְּרַב אַבְיִין: מְאַרְסִין תּוֹךְ
שְׁלֹשָׁה, וְכוּן עוֹשִׂים מַעֲשֵׂה.

Rabbi Naḥum posed his question: **But we maintain that the *halakha* is not in accordance with that mishna.**^N This would seem to contradict the principle that the *halakha* is always in accordance with an unattributed opinion. Rabbi Ḥiyya said to Rabbi Naḥum that the principle applies to all cases **apart from this mishna**, as with regard to this particular mishna there are **Rabbi Yoḥanan and Reish Lakish who both say: This is not** an authoritative mishna, and so it cannot be relied upon for a halakhic ruling.

The Gemara asks: **What is the reason** to say that the mishna is not authoritative? **Rav Huna bar Manoah said in the name of Rav Idi, son of Rav Ika: It is because the first clause of that mishna contradicts the latter clause**, as it teaches: **A comb used for wool from which every other one of its teeth were removed is no longer considered a utensil**, and so it will remain ritually pure. **This implies that were two teeth to remain in it in one place**, it could become ritually impure. **And then the mishna continues and teaches: If three teeth remained in it in a single place it is still considered a utensil** and so it could become ritually impure. This indicates that if there are **three, yes**, it could become ritually impure, but if there are **two, no**, it would not become ritually impure.

The Gemara asks: **But what is the difficulty?** Perhaps this ruling that if two teeth remain it is considered a utensil is referring to **the internal teeth**, found in the middle of the frame, while **that** ruling that it is not considered a utensil is referring to **the outer teeth**, which are adjacent to the frame of the comb, which makes them unsuitable for use.

Rather, the difficulty with the mishna is **from here**, as it teaches: **And any of the teeth that were individually removed on their own**, since they can serve a useful purpose they are considered utensils and can become ritually impure. **And the implication is that this is true even though the tooth was not prepared for that purpose.** But say the latter clause as follows: **If one of the teeth was removed, and it was prepared in a manner that rendered it suitable for use in cleaning an oil lamp or for stretching ropes**, then it would be considered a utensil and could become ritually impure. The implication is that if **it was prepared for use**, then **yes**, it would be considered a utensil, but if **it was not prepared for use**, then **no**, it would not be considered a utensil.

Abaye said: **But what is the difficulty?** Perhaps this ruling, that further preparation is not required before it is considered a utensil, is referring to a case where the teeth were removed **with their base**, which allows them to be used immediately for various functions, whereas **that** ruling, that it is considered a utensil only once it is prepared for use, is referring to a case where the teeth were removed **without their base** and therefore require further preparation before they can be used.

Rav Pappa stated an alternative resolution: **But what is the difficulty?** Perhaps this ruling that further preparation is not required is referring to a case where the teeth were **narrow**, whereas **that** ruling that it is considered a utensil only once it is prepared for use is referring to a case where the teeth were **thick**.

Rather, the reason that the mishna is not accepted as authoritative is not due to some difficulty in the formulation of the mishna, but **because those who are exact^B in their rendition of the tradition conclude this mishna with: This is** the statement of **Rabbi Shimon**. In other words, this mishna is not unattributed but presents the minority opinion of a single Sage, and it is for this reason that it is not accepted as authoritative.

§ Rabbi Ḥiyya bar Avin sent a message from Eretz Yisrael with regard to the *halakha* cited in the mishna: **One may betroth a woman, but not marry her, within three months of her previous marriage; and so one acts in practice.**

Rabbi Hanina the Great – רבי חנינא הגדול: This is Rabbi Hanina bar Hama, who is labeled this way because he was one of the outstanding Sages of his generation. In the Jerusalem Talmud he is known as Rabbi Hanina Rabba, which bears the same meaning. This epithet is generally used when Rabbi Hanina is mentioned alongside another Sage of that name, in this case Rabbi Hanina Kara, to differentiate between them.

וכן היה רבי אלעזר מלמדנו משום רבי חנינא הגדול: רובו של ראשון, ורובו של שלישי, ואמצעי שלם.

אממר שרא לרארס ביום תשעים. אמר ליה רב אשי לאממר: והא רב ושמואל דאמרי תרווייהו: צריכה להמתין שלשה חדשים, חוץ מיום שמת בו וחוץ מיום שנתארסה בו! ההוא לענין מינקת איתמר. דרב ושמואל דאמרי תרווייהו: צריכה להמתין עשרים וארבעה חדש, חוץ מיום שגולד בו וחוץ מיום שנתארסה בו.

והא ההוא דעבד סעודת אירוסין ביום תשעים, ואפסדיה רבא לסעודתיה! ההיא סעודת נשואין הואי.

והלכתא: צריכה להמתין עשרים וארבעה חודש, חוץ מיום שגולד בו וחוץ מיום שנתארסה בו. וצריכה להמתין שלשה חדשים, חוץ מיום שמת בו וחוץ מיום שנתארסה בו.

”חוץ מן האלמנה” וכו'. אמר רב חסדא: קל וחומר, ומה במקום שאסור לכבס – מותר ליארס, מקום שמוותר לכבס – אינו דין שמוותר ליארס!

And so Rabbi Elazar would teach us in the name of Rabbi Hanina the Great^p that the three months are counted as follows: One counts the majority of the days of the first month,ⁿ and the majority of the third month, and the entire middle month.

Ameimar permitted one to betroth a woman on the ninetieth dayⁿ itself. Rav Ashi said to Ameimar: Didn't Rav and Shmuel both say that she needs to wait three full months, excluding the day on which the husband died and excluding the day on which she is betrothed? It is apparent that it is still prohibited to betroth a woman on the ninetieth day itself. Ameimar said to him: That which you heard, that the days of the husband's death and of the betrothal are not included, was stated only with regard to a nursing woman, as it was Rav and Shmuel who both said: A nursing woman needs to wait twenty-four months before being betrothed, excluding the day on which the baby was born and excluding the day on which she is betrothed.

The Gemara asks: Wasn't there an incident concerning a certain person who prepared a betrothal feast on the ninetieth day following the death of the woman's first husband, and Rava caused him to forfeit his feast by prohibiting the betrothal on that day? The Gemara answers: That feast was actually a marriage feast, but had it been a betrothal feast it would have been permitted.

The Gemara summarizes: The *halakha* is that a nursing mother needs to wait twenty-four months,ⁿ excluding the day on which the baby was born and excluding the day on which she is betrothed. And if she was widowed but was not nursing, then she needs to wait only three months, excluding the day on which her previous husband died and excluding the day on which she is betrothed.^h

S The mishna states that Rabbi Yosei says: All women may be betrothed within three months **except for a widow**, due to the mourning period she must observe for her deceased husband. Rav Hisda questioned the mishna's ruling and said: Based on an *a fortiori* inference, it should be permitted for a woman to be betrothed during the thirty-day mourning period for her husband: If during another period of mourning, which the Gemara will specify, **when it is prohibited to launder clothes, it is permitted to be betrothed**, then during the thirty-day morning period for a husband, **when it is permitted to launder clothes, isn't it logical that it should also be permitted to be betrothed?**

NOTES

The majority of the first month – רובו של ראשון: The Rivan claims that this novel ruling is limited and applies only to a woman who was merely betrothed to her previous husband. However, even Rabbi Hanina would concede that a woman who was married would have to wait three complete months.

Some commentaries suggest the basis for Rabbi Hanina's ruling is to be found in the narrative of Tamar, where it states that her pregnancy was discernible “about three months after” (Genesis 38:24), which they interpret to mean that there was not three full months but some part of them.

On the ninetieth day – ביום תשעים: In the *She'iltot deRav Achai Gaon* it is written that the reason that the woman is permitted to

marry on the ninetieth day itself is based on the principle that in many cases, once a portion of the day has passed it is considered as though the entire day had passed.

Twenty-four months, etc. – עשרים וארבעה חודש וכו': The geonic responsa and several *midrashim* see an allusion to this *halakha* in the verse: “You shall not cook [*tevashel*] a kid in its mother's milk” (Exodus 23:19). The numerical value of the Hebrew word *tevashel* is 732, which is exactly the number of days in two solar years plus two additional days. However, the later commentaries discuss whether the twenty-four months referred to here are based on the solar or the lunar calendar, as well as what the *halakha* would be if one of the years were a leap year.

HALAKHA

The time of betrothal following the waiting period – זמן: Pregnant women and nursing mothers may not be betrothed, and certainly not married, until the period of nursing has ended. The time established by the Sages for this period is twenty-four months, excluding the day of the child's

birth and the day of the betrothal. A woman who is widowed or divorced and is not pregnant or nursing must wait ninety days, excluding the day of the husband's death or the divorce and the day of the betrothal (Rambam *Sefer Nashim, Hilkhot Geirushin* 11:26; *Shulhan Arukh, Even HaEzer* 13:1, 11).

The week in which the Ninth of Av occurs – שַׁבַּת שְׁחַל – תְּשֻׁעָה בְּתוֹכָהּ: It is prohibited to cut hair and to launder clothing during the week in which the Ninth of Av occurs. Laundered clothes may be worn only on Shabbat. There are several opinions with regard to which activities are classified as laundering and are therefore prohibited. This is the Sephardic custom. The Rema explains that it was customary to be more stringent and to adopt all of these restrictions from the first day of the month of Av. This is the Ashkenazic custom (Rambam *Sefer Zemanim, Hilkhot Ta'anit* 5:6; *Shulḥan Arukh, Oraḥ Ḥayyim* 551:3).

Prior to this time – קודם הזמן הזה: Business transactions are reduced from the first day of the month of Av, and joyful building or planting is not performed unless it is done for the sake of a mitzva (Ran). This is in accordance with the Gemara in tractate *Ta'anit* (Rambam *Sefer Zemanim, Hilkhot Ta'anit* 5:6; *Shulḥan Arukh, Oraḥ Ḥayyim* 551:2).

Betrothal and marriage in the month of Av – אירוסין ונשואין – בחודש אב: It is prohibited to marry from the first day of Av until after the fast of the Ninth of Av, and betrothal feasts are also not permitted. However, it is permitted to perform a betrothal without a feast even on the Ninth of Av itself. This is in accordance with the Gemara in tractate *Ta'anit* (Rambam *Sefer Nashim, Hilkhot Ishut* 10:14; *Shulḥan Arukh, Oraḥ Ḥayyim* 551:2).

NOTES

On Thursday it is permitted – ובהמשי מותר: This ruling is not cited in the various codifications of *halakha*. The commentaries explain that this is because this *halakha* applies only when the Ninth of Av occurs on a Friday, in which case it is necessary to prepare for Shabbat on Thursday. However, once the calendar was fixed so that the Ninth of Av never occurs on a Friday, this *halakha* became obsolete (*Maggid Mishne*).

From business transactions – מלישא וליתן: This *halakha* is not cited by many of the early halakhic authorities. The commentaries explain that those authorities hold that refraining from business transactions was only a custom of the especially pious, or a regional custom limited to some places. The *Yam shel Shlomo* explains that there is an established ruling that since it was often very difficult for Jews in exile to earn a livelihood in any way other than business, it is improper to prohibit it (see *Tosafot* and *Tosafot Yeshanim*).

מאי היא? דתנן: שבת שחל תשעה באב בתוכה – אסור לספור ולכבס, ובהמשי מותר מפני כבוד השבת. ותנא: קודם הזמן הזה העם ממעטין בעסקיהם מלישא ומליתן, מלבנות ולנטוע, ומארוסין אבל לא בנסיין, ואין עושין סעודת אירוסין.

בי תנא ההיא – קודם דקודם (תנא).

אמר רבא: וקודם דקודם נמי, קל וחומר: ומה במקום שאסור לישא וליתן – מותר ליארס, מקום שמוותר לישא וליתן – אינו דין שמוותר ליארס!?

לא תימא דרבי יוסי אומר כל הנשים יתארסו, אלא אימא: כל הנשים ינשאו.

The Gemara explains the cases involved: What is the period of mourning to which Rav Ḥisda is referring? As we learned in a mishna (*Ta'anit* 26b): During the week in which the Ninth of Av occurs,^h it is prohibited to cut hair and to launder clothes, but on Thursday it is permittedⁿ in deference to Shabbat. And it is taught in a *baraita*: Prior to this time^h the public reduce their activities, refraining from business transactions,ⁿ from building and planting, and they may betroth women but may not marry them,^h and they may not make a betrothal feast. The Gemara assumes that the *baraita* is referring to the days immediately preceding the Ninth of Av. Accordingly, during the days prior to the Ninth of Av it is prohibited to launder clothes, but it is permitted to be betrothed. It was upon this period of time that Rav Ḥisda based his *a fortiori* inference.

To defend Rav Yosei's ruling in the mishna, the Gemara explains: When that *baraita* is taught, it is taught with regard to the period prior to the period that is prior to the Ninth of Av, i.e., the days prior to the week in which the Ninth of Av occurs. It is only then that it is permitted to be betrothed, but during the week in which the Ninth of Av occurs it is prohibited. Therefore, the basis of Rav Ḥisda's *a fortiori* inference is undermined.

Rava said: From the period prior to the period that is prior to the Ninth of Av, a challenge to Rabbi Yosei's ruling can also be advanced based on an *a fortiori* inference, as follows: If in a period of mourning when it is prohibited to conduct business transactions, it is permitted to be betrothed, then during the thirty-day morning period for a husband, when it is permitted to conduct business transactions, isn't it logical that it should also be permitted to be betrothed?

The Gemara accepts the conclusion of this *a fortiori* inference and therefore concludes: Do not say that Rabbi Yosei says: All women may be betrothed within three months; rather, emend his statement to say: All women may be married within three months except for a widow. However, even Rabbi Yosei agrees that it is permitted for a widow to be betrothed during this period.

Perek IV
Daf 43 Amud b

ולית ליה לרבי יוסי להבחין?

The Gemara asks: But does Rabbi Yosei not accept that there is a decree to wait three months in order to distinguish between the seed of the first and second husbands? According to the Gemara's emendation of his statement, it would appear there is no case in which Rabbi Yosei applies the decree.

לית ליה, ואיבעית אימא: לעולם אית ליה, ואימא, רבי יוסי אומר: כל ארוסות גרושות ינשאו.

The Gemara answers: Indeed, he does not accept the decree. And if you wish, say that actually, he does accept the decree and applies it in the case of a married woman who was divorced. And with regard to the challenge to his opinion from the *a fortiori* inference, emend the mishna and say: Rabbi Yosei says that all women who were only betrothed to their previous husbands and then divorced may be married within three months, since the reason to wait does not apply in this case.

אי הכי היינו רבי יהודה! איבא בינייהו נשואה ליארס; רבי יהודה סבר: נשואה מותרת ליארס, ורבי יוסי סבר: נשואה אסורה ליארס.

The Gemara asks: **If so**, then **this** opinion of Rabbi Yosei is identical to the opinion of **Rabbi Yehuda**. What difference is there between them? The Gemara answers: **There** is a practical difference **between them** in the case of a woman who was **married** to her previous husband and seeks to be **betrothed**. **Rabbi Yehuda holds that it is permitted to betroth** a woman who was **married** to her previous husband without first waiting three months. **And Rabbi Yosei holds that it is prohibited to betroth** a woman who was **married** to her previous husband without first waiting three months.

וסבר רבי יוסי נשואה אסורה ליארס? והתנא, רבי יוסי אומר: כל הנשים יתארסו, חוץ מן האלמנה מפני האיבול, וכמה איבול שלה - שלשים יום. וכולן לא ינשאו עד שיהו להן שלשה חדשים!

The Gemara asks: **But does Rabbi Yosei really hold that it is prohibited to betroth** a woman who was **married** to her previous husband without first waiting three months? **Isn't it taught in a baraita: Rabbi Yosei says that all women may be betrothed without waiting except for a widow, due to the mourning period** she must observe for her deceased husband; **and how long is her mourning period?** It is **thirty days**. **And none of them may be married until they have waited three months**.

האי מאי קושיא? אילימא דקתני, רבי יוסי אומר: כל הנשים יתארסו - מי אלימא ממתניתין דאוקימנא בארוסות גרושות ינשאו - הכא נמי כל ארוסות גרושות ינשאו.

The Gemara clarifies the question: **What difficulty does this baraita pose?** **If we say that the baraita teaches: Rabbi Yosei says that all women may be betrothed without waiting, is the baraita stronger than the mishnaⁿ that was established as teaching that women who were only betrothed to their previous husbands and then divorced may be married within three months?** **Here, too**, the *baraita* could be established as teaching that **all women who were only betrothed to their previous husbands and then divorced may be married within three months**.

אלא מסיפא, דקתני: וכולן לא ינשאו עד שיהו להן שלשה חדשים. אינסובי הוא - דלא, הא איתרוסי - שפיר דמי.

Rather, the difficulty arises from the latter clause that teaches: **And none of them may marry until they have waited three months**. This implies that Rabbi Yosei holds that it is specifically **marrying that is not permitted, but betrothing seems well** and is permitted. This challenges the Gemara's original claim that Rabbi Yosei disagrees with Rabbi Yehuda on this point.

אמר רבא, תריץ ואימא הכי: רבי יוסי אומר כל ארוסות גרושות ינשאו, חוץ מן האלמנה מפני האיבול, וכמה איבול שלה - שלשים יום. ונשואות לא יתארסו עד שיהא להן שלשה חדשים.

Rava said: Resolve the difficulty and emend Rabbi Yosei's statement to say this: Rabbi Yosei says that all women who were only betrothed to their previous husbands and then divorced may marry within three months except for a widow, due to the mourning period she must observe for her deceased husband. **And how long is her mourning period?** It is **thirty days**. **And women who were married to their previous husbands may not be betrothed until they have waited three months**.

ואלמנה מן הארוסין מי אית לה איבול? והתני רבי חייא בר אמי: אשתו ארוסה - לא אוגן ולא מיטמא לה, וכן היא לא אוננת ולא מיטמאה לו. מתה - אינו יורשה, מת הוא - גובה כתובתה.

The Gemara asks: **But does a woman who became a widow from betrothal have to observe a mourning period for her husband? Didn't Rabbi Ḥiyya bar Ami teach in a baraita: If one's wife to whom he was betrothed died, he does not observe a period of acute mourning for her, and if he is a priest he is not permitted to become ritually impure for her. And similarly, if he dies, she does not observe a period of acute mourning for him and she does not become ritually impure for him.ⁿ If she dies, he does not inherit from her. If he dies, she collects payment of her marriage contract.** The *baraita* demonstrates that a widow is required to mourn her husband only if she was married to him and not merely betrothed. If so, clearly Rabbi Yosei's ruling in the mishna is referring to married women. Accordingly, all of the Gemara's emendations of Rabbi Yosei's statement, in order to defend his statement from Rav Ḥisda's *a fortiori* inference, are refuted.

NOTES

מי אלימא ממתניתין - Is the *baraita* stronger than the mishna? Since the language of the Mishna is assumed to be more exact than that of the *baraitot*, being that the latter were not proofread and examined to the same extent, it often happens that the Gemara revises the language found in a *baraita* or assumes that its formulation is not exact. Consequently, if the same expression is found in both a mishna and in a *baraita*, and it is revised or understood to be imprecise in the mishna, then it stands to reason that the same expression must be revised in the *baraita* as well.

לא מיטמאה - She does not become ritually impure for him - לו: The early commentaries note that this clause of the *baraita* is strange because a woman is never prohibited from becoming ritually impure, even if she is the daughter or wife of a priest. Rashi apparently avoided this difficulty by explaining that the intention of the *baraita* is just that a betrothed woman is not obliged to involve herself with his burial, which will usually result in her becoming ritually impure.

Betrothal without a feast – אירוסין בלא סעודה: In the time of the Talmud formal betrothal would take place long in advance of marriage, often a year beforehand. Following the betrothal, the bride and groom are still not permitted to live together. Consequently, betrothal alone does not lead to a sense of joy unless a celebratory feast to mark the event is prepared, in which fine foods, meat, and wine are available. In contrast, the marriage represents the beginning of the couple's life together, and therefore it is a joyous occasion even if it is not celebrated with a feast.

New mourning is different, etc. – שאני אבילות חדשה: Rashi explains that the mourning for the Ninth of Av is less severe than the mourning of a private individual on two counts, both because it is public and because it is old. Rabbeinu Tam raises a challenge to this in *Tosafot*: If this is so, then the *a fortiori* objection raised earlier by Rav H̄isda is indeed valid. Ramban suggests a further objection, pointing out the repetitive language utilized in the Gemara, which states: New mourning is different from old mourning and the mourning of the public is different from the private mourning of the individual. This seems to imply that there is not a single difference, but rather two differences. The commentaries suggest that the aspects of some rulings on the Ninth of Av may be more lenient, while others must be more stringent, and therefore it is not possible to draw inferences from these *halakhot* to matters concerning private individuals.

Rabbeinu Tam holds that the *halakha* must be ruled stringently with regard to actions performed in the public sphere in matters of public mourning, as were it not so, it would appear that there is no need to be concerned over displays of mourning at all. However, in private matters such as betrothals, there is no reason to be stringent. The Ramban explains differently: Since the mourning on the Ninth of Av is old, people might tend to treat it lightly. Therefore, a stringent ruling was put in place with regard to laundering clothes, a restriction that does not exist in cases of new mourning. On the other hand, were the Sages to permit betrothal in cases of private mourning, people might end up preparing feasts to celebrate the event, and no one would stop them, whereas in cases of public mourning others would certainly prevent the one performing the betrothal from performing any prohibited actions.

The Meiri explains that public mourning is less intense, and so to emphasize the period, the Sages were more stringent in the matter of laundering clothes. However, they were concerned that if they were to impose a rabbinic decree against betrothals during periods of public mourning, people might not obey, and so they did not do so.

Mourning of the public – אבילות דרבים: Rivan explains that public mourning is less intense because in such cases people comfort one another. Similarly, the Meiri explains that this type of mourning is in itself a partial consolation.

אלא תנאי היא. דתנאי: מראש חדש ועד התענית העם ממעטין מעסקיהן, מלישא ומלייתן, מלבנות ולנטוע, ומליארים ומלישא. שבת שחל תשעה באב בתוכה – אסור לספור ולכבס (ולאסור ליארים). ויש אומרים: כל החדש אסור.

מתקוף לה רב אשי: ממאי דליארים – ליארים ממש? דלמא למיעבד סעודת אירוסין הוא דאסור, הא ליארים – שפיר דמי.

אי הכי, מלישא? לינשא נמי למיעבד סעודת נשואין הוא דאסור, הא לישא – שפיר דמי! הכי השתא! בשלמא נשואין בלא סעודה – איכא שמחה, אלא אירוסין בלא סעודה – מי איכא שמחה?

אלא אמר רב אשי: שאני אבילות חדשה מאבילות ישנה, ושאני אבילות דרבים מאבילות דיהודי.

מתני' ארבעה אחין נשואין ארבע נשים, ומתו. אם רצה הגדול שבהם לייבם את כולן – הרשות בידו.

מי שהיה נשוי לשתים נשים ומת – ביאתה או חליצתה של אחת מהן פוטר את צרתה.

Rather, it must be that the question of whether it is permitted to betroth a woman during the period prior to the week of the Ninth of Av is subject to a dispute between *tanna'im*. As it is taught in a *baraita*: **From the New Moon of Av and until the fast on the ninth, the public reduces its activities, refraining from business transactions, from building and planting, and from betrothing and marrying.** During the week in which the Ninth of Av occurs, it is prohibited to cut hair and to launder clothes, and it is prohibited to be betrothed. And some say: It is prohibited for the entire month. The Gemara's challenge to Rabbi Yosei's opinion that it is prohibited for a widow to be betrothed during her mourning period was based on an *a fortiori* inference that assumes that it is permitted to be betrothed during the mourning period preceding the week of the Ninth of Av. However, since this ruling is subject to a dispute, Rabbi Yosei could reject the *a fortiori* inference by stating that he holds in accordance with the opinion that it is in fact prohibited to be betrothed during that period.

Rav Ashi strongly objects to this: From where is it known that when the *baraita* prohibits one to be betrothed, it is referring to actually betrothing? Perhaps it is only to make a betrothal feast that is prohibited, but merely to be betrothed seems well and is permitted.

The Gemara questions Rav Ashi's objection: If so, then with regard to the prohibition against marrying as well one could make the same claim: With regard to the prohibition to marry, too, it is only to make a marriage feast that is prohibited, but merely to marry seems well and is permitted. The Gemara rejects its question: How can these cases be compared? Granted, from a marriage, even without a feast, there is joy, but from a betrothal without a feast,^N is there any joy? It is merely a legal ceremony.

Rather, Rav Ashi stated a different resolution of Rav Yosei's opinion: **New mourning**, i.e., the mourning for a relative who has just passed away, is different^N from **old mourning**, i.e., the mourning over historic events such as the destruction of the Temple, and it is appropriate to be more lenient in the latter. **And the mourning of the public^N is different from the private mourning of the individual**, and it is appropriate to be more stringent in the latter. As such, it is not possible to form an *a fortiori* inference from the *halakhot* of mourning for the Temple to those of a wife mourning for her husband.

MISHNA In a case of four brothers^H married to four women and some of the brothers died childless, their wives thereby become *yevamot*. If the eldest of the brothers who survived wished to consummate the levirate marriage with all of his *yevamot*, he has permission to do so.

In the case of one who was married to two women^H and died childless, the intercourse or *halitza* of either one of the wives with the *yavam* releases her rival wife from the levirate bond, and the rival wife need not enter into levirate marriage or perform *halitza*.

HALAKHA

Four brothers, etc. – ארבעה אחין וכו': In a case where one had a number of brothers who died childless, so that their wives happened before him for levirate marriage, then if he has the means to do so, he must consummate levirate marriage with all of them, or he may perform *halitza* with all of them, or he may consummate levirate marriage with some and perform *halitza* with the others. However, he may do so with only one wife from each brother (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaHalitza* 1:11; *Shulhan Arukh*, *Even HaEzer* 161:8).

One who was married to several women – מי שהיה נשוי לכמה: If a man married to several women died childless and was survived by his brother, then once that brother either consummates levirate marriage or performs *halitza* with one of the wives, all of her rival wives are thereby released from their levirate bond (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaHalitza* 1:9; *Shulhan Arukh*, *Even HaEzer* 161:1).