



THE שבווע MATTERS

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

שבת קודש פרשת פינחס
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לענ יצחק בן עליזה

Insights from our Chaburos

Who is Permitted to a צרה

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1. There is a חקירה in all of יבמות מסכת regarding the איסור צרה: is the איסור צרה a new type of איסור ערוה, similar to אחות אשה, that happens to only exist by יבום where the ערוה צרה becomes like the ערוה itself? Or do we say that לצרור just tells us that the צרה is פטורה from יבום and ממילא the original אשת איסור comes back. איסור אשת אח and in other places seems to say that איסור merely exempts a צרה from יבום and ממילא she has אח איסור. However, the משנת רבי אהרן and הלכות יבום וחליצה in חידושי מרן רי"ז הלוי say that our גמרא seems to not hold like the view that צרה is just a יבום פטור. One clear proof is that the גמרא says that we need a פסוק to teach us that צרה is not אסורה in a case יבום במקום יבום. If צרה was just a פטור then that line would seemingly make no sense as במקום מצוה there is no איסור אשת אח at all so how could she be אסורה! However, the אחיעזר in חידושי מרן רי"ז הלוי says that although our גמרא does say that, our גמרא is only in the מותרת שלא מקום צרה stage, but once we know that צרה is just a פטור, then we change to the idea that צרה is just a פטור. 2. The גמרא brings a פסוק to say that a יבם can divorce his יבמה after יבום and can even remarry her afterwards, because otherwise we would assume that since he has already performed the mitzvah of Yibum he is left only with the אח איסור אשת אח. In חידושי מרן רי"ז הלוי they ask why don't we require a פסוק to prove that after ראשונה the יבמה is allowed to stay married to her יבם even though the מצוה of יבום would seem to have been completed? Indeed, when it comes to בנייה שניה we say they cannot do בנייה since the מצוה was already completed, so why don't we need a פסוק to say that יבם can do בנייה שניה? Tosofos answers that it is a סברה that the תורה didn't give יבום with the intention that you divorce her after the ראשונה שדה. The מרומי שדה has a different answer which is consistent with his שיטה in all of שם. He answers that מצות יבום have minimum שיעורים but if you do more than the minimum it is still considered מצוה. For example, in ח ע"ב it says that if you decide to bring ten חגיגה קרבן (nine more than necessary), they all count as חגיגה קרבן and תוספות says from the ירושלמי that they are all יום טוב. You see from there that doing more מצוה than the תורה requires is still called חלק of the מצוה. The same is true for eating more than אכילה of מצוה. The entire חפצה של מצוה is considered אכילה. Similarly, as long as the יבם and יבמה are married the מצוה continues. However, that is only true where it is הותרה. However, when it comes to דחיה then you can only do the minimum amount. Therefore, by regular יבום they can stay married forever as it is הותרה, whereas בנייה ראשונה it is דחוייה so you can only do בנייה ראשונה.

Stories of the Daf

Fear of Sin

”כי כל אשר יעשה מכל התועבות האלה ונכרת”
The verse from Vayikra 18:29 cited in this week's daf states that perpetrators of abominations will be cut off from Hashem, חו. As we see from the following story, the Gedolei Yisroel were not only exceedingly careful to avoid any personal transgression, but also fled before the possibility of an issur kareis as if it were a raging fire. The Brisker Rav, ז"ל, had just inspected a mikveh and after due consideration declared it kosher for use. A certain person was present and blurted out to the Rav “But Rebbi, isn't that a crack over there? Perhaps water will seep out and the mikveh will be prohibited, חלילה?” The Brisker Rav carefully examined the spot that the other man had pointed out and saw that it was indeed slightly cracked. It was certainly possible that there might have been some seepage, which would have rendered the mikveh unfit. As soon as the Brisker Rav saw that he had nearly permitted that which is forbidden, he blanched and fainted dead away! Forty years later, the Brisker Rav was one of the Gedolim of Yerushalayim. He miraculously escaped the Nazis, built a yeshiva and raised up a new generation of many students. Every major question made its way to his desk; many visitors seeking solutions to their seemingly insolvable problems found their way to him. One day, a stranger arrived, but he greeted the Rav as if he knew him. The Brisker Rav asked, “Where do I know you from?” The man said his name, and mentioned that he knew the Rav years earlier, in Brisk. Upon hearing this, the Brisker Rav lost consciousness. After he came to, the Brisker Rav explained, “As soon as I heard your name, I remembered the mikveh that was slightly cracked that I had mistakenly pronounced kosher for immersion. Although the crack might not have leaked, if it had I would have permitted an issur kareis. Forty years might have passed, but it was just as horrifying to me as if it had happened yesterday!”

Parsha Connection

In this week's Parsha we read about the daughters of Tzelafchad. The Torah lists their lineage back to Yosef. Rashi asks the reason for this. It already said Menashe and we know that he was the son of Yosef? Rashi brings a Sifrei that the mention of Yosef is to suggest that just as Yosef held the Eretz Yisroel dear, and insisted that his bones be brought to Eretz Yisroel so too, his descendents the daughters of Tzelafchad held the Eretz Yisroel dear, as it is says (v. 4) “Give us an inheritance.” The obvious question is how do we know that they were motivated by a love for Eretz Yisroel and not simply monetary greed? Rashi in Passuk 4 quotes the Gemara explaining that daughters of Tzelafchad had a two part argument, 1) if daughters are like sons, then we should get a portion of Eretz Yisroel, and 2) if they are not like sons then our mother should have had Yibum performed on her. We see from here that their true motivation was to establish a namesake for their father because they would have just as happy had their uncle performed Yibum on their mother than had they received the monetary benefit of an inheritance.

CONTINUED

Halacha Highlight

The Prohibition of Marrying One's Wife's Sister

תלמוד לומר בחייה כל שבחייה
The pasuk therefore states: "In her lifetime," to indicate that the prohibition is in force under all conditions during the wife's lifetime.

Rav Chaim Alaphandri¹ posed the following query regarding the prohibition against marrying one's wife's sister. The Gemara states that the prohibition against marrying one's wife's sister applies only as long as one's wife is still alive. What will the halacha be if a man is married and his wife is inflicted with a wound that renders her a teraifah. Do we say that the teraifah wound diminishes her "life," since she will die within the year and consequently if the man gives kiddushin to his wife's sister the kiddushin is effective, or perhaps as long as she is alive the prohibition remains in place and is not removed until she has died. Rav Chaim does not reach a definitive conclusion on this matter. Later authorities point to a Gemara in Niddah² that has bearing on this matter. R' Yirmiyah inquired about a woman who was carrying a fetus that appeared like an animal and the fetus's father accepted kiddushin on her behalf. The significance of the question, explains the Gemara, is whether the betrother is permitted to marry the fetus's sister. Rashi's comments to this Gemara indicate that a teraifah is considered alive³ and as such it would be prohibited to marry her sister. Ramban⁴, on the other hand, disagrees with Rashi and maintains that if it was known with certainty that the fetus was not viable it is considered as if it is not alive and one would be permitted to marry the sister. Rav Tzvi Hirsh Eisenstadt⁵, the Pischei Teshuvah, rules, based on the comments of Rashi, that a woman who is a teraifah is still considered to be alive and it is prohibited for her husband to marry her sister. On the other hand, Rav Yosef Shaul Nathanson⁶, the Shoel Umeishiv, writes that since a person with a teraifah wound will not live there is no prohibition against marrying her sister. The consensus of authorities⁷ concurs with the ruling of Pischei Teshuvah that as long as the wife is alive it is prohibited to marry her sister, even if she is mortally wounded.

1. בספרו מגיד מראשית יוד סוס ב' ומובא דבריו בפתש אהי' ס' טו סק יא
2. גמ' נדה כג
3. רשי שם דה למימרא
4. רמב"ן על הסוגיא הנל
5. פתש הנל
6. הסכמתו לשרת שבות יעקב
7. ע' שדי חמד אסיפת דינים מערכת אשיות ס' א' אות ג' ופרדשם יוסף פרשת בראשית אות לו (עמ' ג' בפדוס החדש)

Mussar from the Daf

The First Cookie Ruins the Diet

The Gemara discusses the concept of הוּאֵיל וְאִישְׁרֵי אִישְׁתֵּירֵי (since an issur becomes permitted, we can then permit other related issurim). The Gemora explains that we find this concept by a Metzora on the eighth day of the purification process who is permitted to enter the Shaar Nikanor of the Bais Hamikdash, and we permit him to enter even if he became a Baal Keri that day, went to the mikvah and is only a tevul yom. We would think to learn from Metzora that so too a Yevama is permitted to do Yibum even with other women who would have been assur, just like he is permitted to his brother's wife, and we therefore need a special pasuk to forbid these women. This concept of הוּאֵיל וְאִישְׁרֵי אִישְׁתֵּירֵי is a concept that the Yetzer Hara is very well aware of and employs as well. For example, the Gemara says that יצר הרע: היום אומר לו עשה כך, ולמחר אומר לו עשה כך. The Yetzer Hara knows that if he would first come to tell a person go serve Avodah Zara the person would never listen so he employs the concept of הוּאֵיל וְאִישְׁתֵּירֵי, getting you to do something seemingly inconsequential until in the end he can have you serving even Avodah Zara. Addiction specialists and successful dieters know this concept very well. It is not the last drink that makes the alcoholic but the first drink which paved the way for all of the later drinks. So too it is the first cookie that ruins the diet. Practically speaking this means that we have to make red lines in our Avodah that cannot be crossed. Because even if those red lines are far away from really problematic conduct, it is the crossing of the red line that can lead even to the end of עבודת זרה.

Point to Ponder

Rava concludes that we don't need a special possuk to exempt an Erva from Yibum, since a positive Mitzva cannot override a prohibition that carries Kares. Rashi on Daf Beis Amud Beis writes that in case there is no Mitzva of Yibum, a brother's wife becomes to him, like the wife of a brother who left children, since there is no Mitzva of Yibum. How about according to Rava? Since there is no specific exemption from Mitzvas Yibum, would she become an Erva of Ashot Ach? If he decides to perform the Mitzva despite the Lav, is it considered Yibum?

Response to last week's Point to Ponder

The Gemara discusses the Halacha of a Kohen who is wanted for a capital crime who tries to escape by going to do the Avoda in the Bais Hamikdash. Rashi explains that if he is already on the Mizbeach we let him finish, but if he is next to it and only about to start we remove him. Since we do not remove someone who is already engaged in Avoda, it would appear that execution by Beis Din does not supersede Avoda, how can we learn a Kal V'Chomer that execution by Beis Din should supersede Shabbos? The Halacha which Rashi brings, regarding a Kohen who is ON the Mizbeach and has a task related to a sacrifice in his hand, is only applicable when the person is physically on the Mizbeach since the Mizbeach is קוֹלְטוֹ, but if for example he is on the ground even if he is holding the same Avoda we remove him. We thus see that execution by Beis Din does supersede Avoda. (See הפלאה)

ר' יוסף שמואל שמעלקא בר יצחק מערמלשטיין ז"ל Shelly Mermelstien לענן *Yevamos has been dedicated in*

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The shavua matters is published by the Daf a week program under the rabbinical guidance of Harav Meir Stern shlita and Harav Shmuel Kamenetsky shlita

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