



THE SHABUOT MATTERS

לע"נ ברוך בענדיט וברכה גרוס ע"ה
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שבת קודש פרשת כי תצא | מסכת יבמות דף ס"ו

INSIGHTS FROM OUR CHABUROS

Teruma Privileges for a Purchased Slave

ומנין לאשה שקנתה עבדים ועבדיו שקנתו עבדים שיאכלו בתרומה שנאמר וכהן כי קנין נפש קנין בספו הוא יאכל בו וכו'

Teruma may be eaten by a kohen, and it may also be eaten by anyone who is קנין כספו. Our Mishnah clarifies who is included in this category, and which possessions are excluded. Servants who are in the category of נכסי מלוג of the wife of a kohen may not eat teruma if the wife is prohibited to the kohen (a widow for a kohen gadol, or a divorcée to a regular kohen). But if the wife herself is not disqualified for her kohen husband, these servants may eat teruma. The Gemara begins with an inquiry about the law which disqualifies the slaves of a non-qualified wife from teruma. Why are they not allowed to eat, for the Baraisa teaches that a person under the domain of the kohen (the wife who is קנינו) who purchases a slave usually allows the acquired person to eat, as well (קנינו שקנה קנין אוכל). The Gemara gives two basic answers to this question. Ravina explains that a קנין who acquires another קנין (in this case, the wife who buys a slave) can only extend the rights to teruma to the next level if the first person himself can also eat teruma. Here, the wife who is a widow or divorcée cannot eat, so the slave which she acquires also cannot eat. The end of the Mishnah features the case of a bas Yisroel who marries a kohen. When she acquires a slave, even if this slave is from the מלוג, נכסי מלוג, he may indeed eat teruma. Tosafos notes that the Gemara seemingly could have presented the inquiry about a slave bought by the wife who eats teruma from the סיפא of the Mishnah itself, rather than searching for a contrast from a Baraisa. Tosafos explains, however, that there is a significant difference between the סיפא of the Mishnah and the Baraisa. The final case of the Mishnah is dealing with a wife who is fully eligible to marry a kohen. The fact that her acquisition of a slave results in his ability to eat teruma is no surprise, and we would attribute this right to the fact that he was bought by the wife. This servant is able to eat teruma as an extension of the woman who is legally married to a kohen. Yet the Baraisa goes a step further. Here, the wife herself cannot eat teruma, as she is ineligible to be married to him. Yet her purchase is allowed to eat teruma. How can she extend the rights to teruma that she herself does not enjoy? This must be due to our considering the newly-purchased slave as an extension of the kohen himself, and not her. This, then, leads to the question of why the slaves of נכסי מלוג of a widow or divorcée cannot eat. Aside from the answer of Ravina, Rava and Rav Ashi explain that technically, a slave purchased by the widow or divorcée may eat (מדאורייתא), but the rabbis disallowed it due to a גזירה, as each explains according to his understanding.

PARSHA CONNECTION

In this week's daf we find an interesting גזרה to motivate a woman who is living in sin. If an אלמנה marries a גדול כהן some of her slaves (נכסי מלוג) are unable to eat תרומה. Although they should be allowed to eat, רבא says that the Rabbis want to motivate her to leave the גדול כהן and by not allowing her slaves to eat תרומה it will force her to realize that she is living in sin. This incentive for her is in addition to his motivation, since he is obviously transgressing a לאו by staying with her. This concept is very similar to the Torah's instructions for someone who captured a תואר. The Torah outlines specific steps which are meant to cool his desire and help him reconsider his intent in marrying such a woman. The פסוק says וּהבאתה אל תוך ביתך וגלחת את ראשה ועשתה את צפרניה והסירה את שמלת שביה מעליה וישבה בביתך וכו'. Since the possuk says that you shall bring her into your house, why does the it repeat and say that she shall sit in your house? The Alshich Hakadosh explains that the second time refers to living with him and his Jewish wife, meaning in his "home." The Torah wants to create an unpleasant environment for everyone, and by her suffering the inevitable scorn of her צרה (his Jewish wife), she will be very motivated to leave him. So in addition to addressing his interest in her, the Torah is also incentivizing her.

STORIES OFF THE DAF

The "Bought" Wife?

מנין לכהן שנשא אשה וקנה עבדים שיאכלו בתרומה שנאמר (ויקרא כ"ב) וכהן כי יקנה נפש קנין בספו הוא יאכל בו

The shiur iyun of Rav Yosef Rabinovitch, zt"l, of Yerushalayim was in full swing. As always, it lasted for two hours and presented a very deep analysis of all the facets of the sugya under examination. On that particular day, the subject of eating teruma was under discussion, and one of the avreichim took the opportunity to ask Rav Rabinovitch a question that had always bothered him. "I don't understand how we learn about a wife and a slave from the same verse. Although I understand that kiddushin is a kinyan through the means of kesef, can it really be that the Torah considered a man's wife to be his bought property like a slave, such that both are entitled to eat his teruma if he is a kohen?" Rav Rabinovitch answered without missing a beat. "Actually, all the Rishonim explain in Kiddushin that when a woman is acquired (נקנית) through the means of money, it merely means that her acceptance of the sum is the verification that she is permitted only to the husband from then on, and is prohibited to everyone else. This is embodied in the language of kiddushin, as in הקדש—consecration by designation. The Torah Temimah, zt"l, adds a proof to this. Since a married woman's property is not her husband's unless she wishes him to acquire what she earns in exchange for his providing support for her, we see that she is not owned by him. If she is willing to forgo her rights to material support to maintain financial independence, she may keep her own earnings. This is also clear in Rashi in our sugya, on Yevamos 66a. After explaining the sugya more carefully for a few minutes, Rav Rabinovitch turned to the avreich and concluded, "The truth is that there is another, much simpler, way that we see that a woman is not her husband's property. The rule is: anything over which I have sole ownership I can sell. Since no man has the authority to sell his wife, it is clear that she is merely set aside for him and not owned by him. If he can't sell her, he doesn't own her!"

MUSSAR FROM THE DAF

Half and Half

א"ר יצחק מעשה באשה אחת שחציה שפחה וחציה בת חורין וכפו את רבה ועשאה בת חורין אמר רב נחמן בן יצחק מנהג הפקר נהגו בה

The Gemora tells us that there was a case of a woman who was half a maidservant and half a free woman. Since she was causing others to sin because she wasn't able to marry, the חכמים forced the master to free her so that she could properly marry.

How can the חכמים do that? Isn't there an איסור דאורייתא to free an עבד כנעני? Don't we learn from the Gemara in Shabbos 4a, that you cannot do a חטא in order to save a person from another חטא?

The Sefer Hachinuch in Mitzvah (347) explains the איסור to free slaves. He states that the reason why there is an איסור to free the slaves is because if the עבד is not working for you, then you will be forced to subjugate a Yid to work for you doing עבודת פרך. And we would rather have the Yid free to serve Hashem. Therefore, the Torah forbids one to free an עבד כנעני. The Sefer Hachinuch also explains why חז"ל allow one to violate this איסור for the sake of completing a minyan which is only d'rabbanan. Since the whole איסור was created to allow a Jew to focus on Avodas Hashem, in a situation, where freeing the עבד כנעני, will promote Avodas Hashem, then חז"ל permit one to free the עבד. Perhaps that is the pshat in our Gemara as well. The Chachamim understood that the whole איסור was created to increase Avodas Hashem. And in this unique situation, when the שפחה is taking others away from Avodas Hashem, then the Chachamim force the owner to free the שפחה to increase Avodas Hashem. There is an important lesson to be learned here. Obviously, it takes Chazal to decide under what circumstance an איסור can be violated in order to bring about an increase Avodas Hashem. But in our own personal lives we have to recognize that if Chazal were willing to push aside certain איסורים to increase a person's Avodas Hashem then how much more so do we have to be alert to avoid doing something which can bring about a minimization in our Avodas Hashem.

POINT TO PONDER

The Gemara discusses the מחלוקת between רב אמי and רב יהודה regarding a woman who is getting divorced and wants back the actual property that she brought with her into the marriage and the husband wants to just give her the monetary value. One of the proofs that the גמרא mentions in aid of רב אמי (who holds that a husband can simply pay the monetary value) is from the fact that if the husband knocks out the tooth of one of these צאן ברזל slaves, the slave goes free. Since everyone agrees that while they are married the husband is responsible for the property and it is therefore considered his, what is the proof from שן ועין of the slaves?

Response to last week's Point to Ponder:

If we assume that three times creates a definitive חזקה, this woman is presumed to be infertile all along, and that is sufficient reason to reclaim the כתובה. Unless she claims otherwise it is a case of ושמא, ברי ושמא, meaning one side is certain and the other is unsure, which in some cases is enough to win a monetary dispute. There are also ראשונים that distinguish between a case where she already collected to one where she still needs to collect. It is therefore necessary for her to claim that her status only changed now, and she was able to conceive earlier. (See ערוך לנר for additional insight).

HALACHA HIGHLIGHT

Arvus for a
Woman

מעשה באשה אחת שחציה שפחה וחציה בת חורין וכפו את רבה ועשאה בת חורין

There was an incident of a woman who was half-slave and half-free and they forced her owner to set her free

There is a classic debate whether the principle of arvus applies to women. The principle allows a person who has fulfilled a mitzvah to recite the beracha on behalf of someone who did not yet fulfill the mitzvah. Rav Yechezkel Landau¹, the Noda B'Yehudah, writes that men are arevim – responsible – for women but women are not responsible for one another. Therefore a man would be allowed to recite a beracha on a mitzvah that he has already fulfilled for the sake of another man who has not fulfilled it, whereas a woman would not be allowed to make another beracha for a woman.

Rav Akiva Eiger² disagrees and maintains that there is no difference between men and women, as far as the principle of arvus is concerned. The only limitation is that one cannot be responsible for another if he is not obligated by the mitzvah. For example, there is no difference between men and women concerning the mitzvah of Kiddush; therefore a man who already fulfilled the mitzvah may make the beracha for another man or woman. Similarly, a woman who has fulfilled the mitzvah of kiddush is allowed to make kiddush for a man or woman. On the other hand, if we were to assume that women are not Biblically obligated to recite Birkas Hamazon, a woman would not be able to recite Birkas Hamazon for a man since she is not Biblically obligated to recite Birkas Hamazon.

Dayan Yitzchok Yaakov Weiss³, the Minchas Yitzchok, finds support for Rav Akiva Eiger from our Gemara. Our Gemara, in an attempt to demonstrate that women are obligated in the mitzvah of פרו ורבו, relates that Beis Din compels a slave owner to free a woman who is half-slave and half-free so that she could marry. If the slave owner was not responsible for her fulfillment of the mitzvah, how could he be compelled to set her free? The only explanation is to assume that men are responsible to make sure that women fulfill those mitzvos that are incumbent upon them. Thus we see that the underlying assumption of the Gemara is that women are included in the principle of arvus at least to the degree that men are responsible for women's fulfillment of mitzvos.

1. דגול מרובה או"ח סי' רע"א סע' ב'
2. שו"ת רעק"א מהד"ק סי' ד'
3. שו"ת מנחת יצחק ח"ג סי' נ"ד

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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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