



THE SHABBOS MATTERS

שבת קודש פרשת נצבים | מסכת יבמות דף ס"ח

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

INSIGHTS FROM OUR CHABUROS

Those who Disqualify the Woman from Eating Teruma

רישא פסולי קהל סיפא פסולי כהונה

Our Mishnah (67b) lists cases where the relationship between a kohen's daughter and a non-kohen results in the woman's becoming disqualified from teruma, and if the relationship is between a kohen and a בן ישראל, the woman will not be eligible for teruma. One of these cases is where the man (boy) is over nine years and a day. As of age nine, the ביאה of a boy has legal consequence. In the Gemara, Rava explains that the case is where the man is a mamzer or נתין whose lineage is tarnished. His having relations with a kohen's daughter disqualifies her. (As Rashi points out, the statement of ואין מאכילין is not relevant to the case of a nine year old פסול, but it only refers to the inability of a fetus, yavam, etc. to enable the woman to eat teruma.) The next Mishnah (69a, — "the סיפא") introduces an additional case where the woman cannot eat teruma, and it is where kiddushin was given to a woman by someone who is בקהל לבא. אינו ראוי לבא. Now, if the later Mishnah introduces this factor, then Rava cannot be correct in his explanation of our Mishnah of 67b and its already having dealt with this same issue. The Gemara answers that there are two categories of disqualified persons. One group is persons who are disqualified from marrying into the Jewish people (נמזר, etc. – פסולי קהל) and one is persons who may not marry a kohen (i.e., פסולי כהונה – known as חלל). Rashi learns that the first Mishnah teaches the case of פסולי קהל and the second Mishnah then extends the case further to even those who are פסולי כהונה. The logic, he explains, is that from the first Mishnah alone, we might have thought that only פסולי קהל, the most severe type of פסול, would cause the woman to become disqualified from teruma. This is why the second Mishnah extends the rule to even those who are פסולי כהונה. Rashi notes that although the second Mishnah explicitly lists פסולי קהל, it must actually mean those disqualified from kehuna, as he explains. Rabeinu Chananel, cited in Tosafos, prefers the text which reverses the cases of the respective Mishnayos. The first Mishnah teaches כהונה פסולי, and the second teaches פסולי קהל, as is listed. The question is that once we know that כהונה פסולי disqualify her, there is no need to teach that פסולי קהל, which are more severe, also have this effect. Nevertheless, Rabbeinu Chananel explains that without the second Mishnah and its specific mention of פסולי קהל, we would not have known clearly that the first Mishnah itself is dealing with כהונה פסולי. This style is known as ארישא לגלויי ארישא.

STORIES OFF THE DAF

The Baal Teshuva Kohen

גר עמוני ומואבי מצרי ואדומי כותי נתין חלל ומזמר שבאו על כהנת לויא וישראלית פסלן

During the time of the Chasam Sofer, zt"l, a certain woman was married for a number of years to an irreligious Jew, a mumar, before she was widowed. Some time after he died, she became engaged to a suitable observant man who happened to be a kohen. Soon after their engagement, a member of their community brought their situation before the Avnei Miluim, zt"l. Recalling our Gemara which states that anyone who is pasul and has relations with a woman prohibits her from later marrying a kohen, the Avnei Miluim too had doubts about the permissibility of the match. Perhaps a woman who was married to a mumar is forbidden Rabbinically from remarriage to a kohen? This burning question was eventually placed before the Chasam Sofer zt"l. He explained, "Nowhere in the words of the Rishonim do we find that relations with a mumar prohibit a woman from remarrying a kohen even Rabbinically. The only trouble is that the Avnei Miluim has a doubt about this. In my humble opinion, it cannot possibly be prohibited even Rabbinically. If it were to be prohibited, we would be faced with a very odd scenario."

He continued, "If a kohen was a blatant desecrator of the Shabbos or acted in some other way that marked him as an apostate, by this logic he would be forbidden to remain with his own wife if he did teshuva! Of course, if there was a statement in Chazal or the Rishonim that addresses this circumstance, we would not have the latitude to interpret this case in any other way. However, since we have no such clear indication, we must surely permit the marriage in question. This can be compared to the well-known leniency in the case of a thief who built the stone he stole into a structure. We do not force him to return the original object, because such a ruling would discourage others like him from doing teshuva since it would mean that they would have to uproot all their hard work to make restitution. How much more would Chazal have refrained from instituting a ruling that would prevent kohanim from doing teshuva, since it would mean that they would have to divorce their wives!"

PARSHA CONNECTION

In this week's daf we find a list of men who cause a פסול for a Jewish lady. Among the list is נתין, who the גמרא on דף עט' explains are non Jews who tried to trick משה and he appointed them as wood choppers and water drawers, as referenced in the second verse in this week's Parsha; וגר אשר יגרר אשר. בקרב מחניך מחטב עציך עד שאב מימיך. When we look at the verse carefully, it is difficult to understand why it says from the wood chopper to the water drawer. These are not two occupations that are on opposite sides of a range? The ראש השנה רמ"ע מפנאו offers a beautiful insight which connects us to ראש השנה. He explains that חוטב עציך is a reference to אברהם אבינו, who chopped wood for the עקידה and שואב מימך is a reference to בהר הכרמל who drew water to pour on the מזבח. They both represent אמונה and נפש which we mention repeatedly on ראש השנה (for example עקידת יצחק and שופר טור או"ח סימן) and נצבים before ראש השנה is always נצבים and the טיחון means standing at attention should be an important reminder for ראש השנה. Wishing everyone a וחתומה טובה!

MUSSAR FROM THE DAF

A Segula for a Great Year

א"ל רבא אי הכי סיפא דקתני ספק בן ט' שנים ויום אחד ספק שאינו השתא ודאי בן ט' לא מאכיל ספק מיבעיא

The Gemara in Rosh Hashanah (16b) teaches that man is only judged based on his actions at that moment. Rabbeinu Channanel quotes the Yerushalmi which explains that the chiddush is that we are not judged on the past, rather Hashem looks at who we are at that moment. How is that to be understood? What if in the past he didn't act properly? Let's try to suggest an understanding of the Gemara in Rosh Hashanah by looking at a sugya from our Gemara in Yevamos.

The Gemara in Yevamos teaches us that a boy as to whom there is a safek whether he is nine years old, disqualifies a woman with whom he has a ביאה from eating Terumah. Tosafos in our sugya asks why don't we say that this boy (who we are מסופק about) has a previous חזקה of being less than nine years old and place him in that status so that he won't disqualify the woman through his ביאה? Tosafos answers that the boy in front of us is certainly nine years old, so therefore he loses any possible previous חזקה. However, if when he came in front of us, and we still had a doubt whether he was nine-years-old, then we would judge him based on his previous chazaka of being a katan.

As we are all approaching Rosh Hashanah, we are concerned what type of judgement will be given on this very holy day. And since we are all people with many different facets, we know sometimes we behave in very elevated manners and sometimes we unfortunately may have fallen short of our ideals. So we wonder how we will be judged? Will we be judged negatively because of recent mistakes we have made. Based on the principle established by Tosafos in our sugya, however, we have hope!

As Tosafos teaches, when there is a question on how to judge someone, here, whether the person is a Tzaddik or a Rasha, we have to first see whether there is a doubt concerning the person standing in front of us right now. If Bais Din has no doubt that the person standing before it is right now a Tzaddik, then any chazaka that he may have previously had concerning misdeeds must fall off. This is the idea of Elul. One must utilize this time to prepare properly for Rosh Hashanah and accustom himself to living a righteous and Torah-committed lifestyle. By doing this we can properly prepare to be inscribed in the Sefer Hachaim on Rosh Hoshana and undo any past chazakas that could be applied to us.

POINT TO PONDER

The Gemara discusses what happens when a lady has been with a פסול (for example an עמוני or מצרי) and why she can no longer eat תרומה. Why wouldn't she become a זונה which automatically disqualifies her from תרומה just like a חללה?

Response to last week's Point to Ponder:

The משנה says that slaves of a pregnant Yisroel lady who is widowed from a כהן, cannot eat Terumah because of the unborn child's share in the slaves. According to רבי אמי who says that a lady can insist on getting her צאן וברזל back from her husband if she gets divorced or is widowed, why can't these slaves eat Terumah, as a result of being "her slaves", as opposed to being part of the husband's estate?

Although according to רבי אמי a lady has a right to reclaim the slaves which she brought into the marriage as צאן וברזל, it is still necessary for the transfer of ownership to take place. Until there is a transfer of ownership the slaves are not considered to be 100% hers.

HALACHA HIGHLIGHT

Chazakah Regarding Matters Which Will Inevitably Change

סיפא דקתני ספק בן ט' שנים ויום א' ספק שאינו וכו'

The end of the Mishnah that discusses a boy about whom there is a doubt whether he was nine years old and a day or not, etc.

Tosafos¹ wonders why the Gemara states that a male who had relations with a woman when he may have been nine years old disqualifies her from teruma when we should apply the earlier chazakah that he was less than nine and the woman should remain fit for teruma. Tosafos answers that the Gemara refers to a case when he is presently nine years old. Therefore, even though we are not certain what his age was at the time he had relations, we do not apply the chazakah that he was less than nine years old at that time. Rather, we apply his present chazakah of being nine years old, because the chazakah that he was less than nine years old is weakened. Tosafos does not explain why the chazakah that he was less than nine is weakened.

Rav Akiva Eiger² suggests that Tosafos can be understood in light of a ruling of Rav Dovid Halevi, the Taz³. Taz rules that when someone receives news that a relative passed away and there is a doubt whether thirty days passed since the death and only one day of mourning must be observed, or less than thirty days passed and seven days of mourning must be observed. Due to this uncertainty, one can be lenient and observe only one day of mourning. The reason we do not declare that there was a chazakah that the relative was alive until the last possible moment is that that chazakah is weak since eventually everyone dies and the person in question is presently dead. Therefore we apply the current condition to the question regarding the past. Similarly, the reason Tosafos considers the chazakah that he was less than nine years old weakened is that it will inevitably pass and presently he is nine years old, therefore we apply his present chazakah and the woman is disqualified from teruma.

Rav Akiva Eiger applies this principle to a case of an animal that was slaughtered and there is a doubt whether the animal was in its eighth day of life and fit for shechita or if it was younger and therefore unfit for shechita. Although all pregnancies end and presently the calf is out of the womb, we do not assume that since the mother was pregnant we apply the chazakah that she remained pregnant until the last possible moment and the calf is too young to be slaughtered. Rather, one can be lenient and apply the present chazakah and assume the calf is in its eighth day of life at the time it is being slaughtered.

1. תוס' ד"ה רישא
2. רעק"א חידושי ליו"ד ס"ט ט"ו
3. ט"ז יו"ד סי' שצ"ז סק"ב

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