



THE SHABBAT MATTERS

שבת קודש פרשת כי תשא | מסכת יבמות דף צ"ב

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

לע"נ מרת פעסיל בת הרב מרדכי ע"ה

INSIGHTS FROM OUR CHABUROS

יחיד שעשה בהוראת בית דין חייב

The Noda B'Yehuda introduces a fundamental query, and based upon it he establishes a famous rule. Why is it, he asks, that a person is obligated to bring an offering when he acts in error due to his relying upon Beis din? What blame should he bear in this case?

In fact, there are several other cases where a person errs, but because he did so while following halachic guidelines there is no blame associated to the person at all. In these other cases he is considered an אונס. For example, earlier (35b), Tosafos (ונמצאת) discusses a case where a yavam waited three months after the death of his brother, as necessary, in order to ascertain that the yevama was not pregnant. He then performed yibum. It later was determined that she was pregnant from her first husband, and that she was prohibited to the brother-in-law, as an אשת אח without the mitzvah of yibum. The halacha is that the yavam is not liable at all. Most pregnancies are detectable at three months, and the halacha only requires that we use normal statistical criteria to determine whether she is pregnant. Here, too, Beis din ruled that she does not have to expect that her husband will return, and she acted based upon their approval. Why in this case is the woman obligated to bring an offering?

Noda B'Yehuda presents the following distinction. Sometimes, Beis din makes a mistake, as in the case of the husband who is still alive. Here, we now see that the witnesses were unreliable. In such a case, the woman is שוגגת, as relying upon poor information bears some element of blame. However, the other case is where there was no mistaken judgment, but the reality was different than we expected. This was the case of the woman whose pregnancy was undetected at three months. The truth still is that most pregnancies are detectable at three months, and the fact that this case was an exception is no one's fault. There is no culpability at all in such cases.

אונס
When is it
and when is it שוגג?

STORIES OFF THE DAF

The Master of Mishnah and the Master of Tanach

בעניותנו צריכה גט

We find in Yevamos 92b that Shmuel says that if a man who is not a brother of the deceased marries a Yevama before she has obtained יבום or חליצה, he must give her a גט. It is necessary to do so because of a doubt.

Why are we so unsure of whether or not such קידושין takes effect while she is in that indeterminate state? Because we simply don't know the exact meaning of the indicated verse. How can it be that the meaning is obscured in this way? The Chofetz Chaim, zt"l, brings the Tana Dibevei Eliyahu to illustrate the point: "In this world, the illumination of the oral Torah is revealed. In the next world, the illumination of the written Torah will be revealed." This is why we may find that one can be considered a talmid chacham even without knowing מוקרא. We can only understand מוקרא in light of the oral Torah now. True understanding of מוקרא is mainly relegated to the next world.

A certain Rosh Yeshiva once sent a student to be tested by the Gadol Hador, Rav Shlomo Zalman Aurebach, zt"l. After the test, the Gadol commented, "He really is an exceptional boy. He makes a good impression and has a broad knowledge of five Mesechtos. However, I am pained by the earlier learning which has been lost. He attended a good cheder and was taught the entire Chumash with Rashi, but it appears as though he has forgotten it. Although the Gemara in Bava Basra 8 writes that when there was a famine and Rabbi wanted to feed exclusively those who had learned, he proclaimed, 'Let those who are masters of Tanach, come and eat. Let those who masters of Mishnah come and eat,' and so forth. The Rashash writes that this implies that one may be a true master of Mishnah even if he is not a master of Tanach. He argues against those who embarrass scholars who have a thorough knowledge of Shas and poskim but don't know verses.

The Gadol concluded, "Nevertheless, one who knows מוקרא is much better off.."

PARSHA CONNECTION

In this week's daf we learn about the consequences of a mistake made by a married woman who assumed that her husband died, and he subsequently returned alive. This week's Parsha details a very similar mistake made by the Jewish people when they assumed that משה רבינו had died and was not returning. Moshe Rabbeinu told the Jewish people that he would return in 40 days and they did not realize that it would be a full 40 days, meaning 40 full 24 hour periods. The פסוק says that משה הקב"ה gave לו חותם after he finished talking to him. "ויתן אל משה ככלתו לדבר אתו בהר סיני שני שני לחת העדת לחת וכו'". Why doesn't the Possuk say that the luchos were given after 40 days? Moreover, why did it have to be a FULL 40 days? The מדרש says that Moshe learned the Torah every day and forgot it, only to learn it again the next day until משה הקב"ה gave it to him במתנה at the end of 40 days. If Moshe was meant to get it as a gift why did he need to first learn the Torah over and over only to then forget it? The Alshich Hakadosh explains that משה had to be transformed into a spiritual being (almost a מלאך) in order to be able to understand and retain the תורה without forgetting anything. The process of this transformation took 40 full days of learning with משה הקב"ה, similar to the 40 days that it takes to form a new baby. This is why it says "אתו ככלתו לדבר" because this process, which occurred through his learning with Hashem took exactly 40 days.

HALACHA HIGHLIGHT

Acting Upon a Mistaken Ruling

הורו בית דין ששקעה חמה ולבסוף זרחה אין זו הוראה אלא טעות

If Beis Din rules that the sun set and the sun subsequently shined this is not an erroneous ruling tather it is an error

Rambam¹ cites the two examples of mistaken rulings mentioned in our Gemara, namely, incorrectly declaring that Shabbos ended and granting a woman permission to remarry based on the testimony of two witnesses. He rules that these mistakes are not considered to be rulings, rather they constitute errors and the people who ultimately acted in accordance with these rulings must bring korbanos to atone for their inadvertent violations of halacha. Rav Avrohom ben Mordechai Halevi², the Teshuvos Ginas Veradim, notes that the two cases mentioned in Rambam are publicized halachos, and he infers that there is a distinction between publicized rulings and non-publicized rulings. Publicized rulings that prove to be in error are classified as errors and those who followed those erroneous rulings must bring a Korban to atone for their violations. However, those who violated non-publicized rulings are classified as though the violation was beyond their control (אונס). Therefore they are not obligated to bring a Korban.

It seems, however, that this distinction is not universally accepted. Rav Yosef Chaim of Baghdad³, the Ben Ish Chai, was asked about a young woman who gave birth to a boy, sometime thereafter counted seven clean days, had relations with her husband, saw blood and showed the stain to her mother-in-law. Her mother-in-law informed her that Biblically this is tahor blood that follows childbirth, and it is just a stringent practice that people follow to consider this blood tamei. Based on this ruling she had relations with her husband. She later discovered that her mother-in-law was incorrect because the blood of a woman who gives birth to a male can only be tahor until the fortieth day from childbirth and the blood that she discovered was found on the fifty-fifth day from childbirth and is Biblically tamei. The question addressed to Ben ish Chai is whether she is considered an אנוסה or שוגגת for this violation.

Ben Ish Chai answered that she is certainly considered a שוגגת for her violation. Even when Beis Din issues a mistaken ruling the violators are in need of atonement for their inadvertent violation (שוגג). Certainly when the mistaken ruling was issued by an individual the one who followed that ruling is in need of atonement. Since Ben Ish Chai did not mention that this case may be different since it was not publicized. It seems, therefore, that he does not draw the same distinction as Ginas Veradim.

1. רמב"ם פ"ד מהל' שגגות הל' ג'
2. שו"ת גינת ורדים ח"י"ד כלל ו' ס"י ו'
3. שו"ת רב פעלים ח"ג י"ד ס"י ט"ו

MUSSAR FROM THE DAF

Water Erodes Stones

דהא שמעינן ליה לרבי עקיבא דאמר אדם מקנה דבר שלא בא לעולם

The Gemora tells us that Rebbi Akiva is of the opinion that an acquisition can take effect for something not yet in existence. The Rishnom discuss why a person can't be נקנה to another if something if not yet in this world. According to Rabbeinu Tam in the Sefer Hayashar (סימן תקצב) the reason a person can't be נקנה to another something not yet in this world is because one cannot have דעת סמיכות (full intention) on something if it isn't yet in this world. And halachically without דעת סמיכות one cannot transfer ownership of an item to another person. This opinion of Rebbi Akiva sheds light on another famous story with Rebbi Akiva. The Avos D' Rav Naasan 6:2 tells the following story: "At what age did Rebbe Akiva start learning Torah? When he was forty years old and he had not learned anything. What turned him around? One time he was standing near a well and asked, 'Who made a hole in this stone?' It was said to him, 'The water which constantly falls every day.' Akiva, don't you know the posuk, 'Water erodes stones?' Rabbi Akiva immediately applied the teaching to himself and said, 'If something as soft as water can carve a hole in solid rock, how much more so can words of Torah – which is hard as iron – make an indelible impression on my heart.' He immediately returned to study Torah for forty years." What gave Rebbe Akiva the ability to think long term and have the vision of how small actions over time change a person? It was the same Rebbe Akiva in our sugya who holds that one can have דעת סמיכות for something even if it is not in front of me now but eventually will be here. Rebbe Akiva was able to see his future self even though it was a בא לעולם דבר שלא בא לעולם which would not come for many years later and that allowed him to consistently take the small steps to become a Gadol B'Torah!

Having a vision of one's future self, allows one to have the patience and consistency to take small steps over the long term.

POINT TO PONDER

The Gemara discusses a situation whereby a woman had one witness who claimed that he knew that her husband died, followed by two witnesses who testified that he is still alive. The Gemara says that if another witness then comes and testifies that her husband is dead we would believe him. Why don't the two single witnesses who both testified that her husband is dead combine as one כח of 2 witnesses, who are together testifying and contradicting the other 2 witnesses who claimed that he is alive?

Response to last week's Point to Ponder:

Although she may be considered an אנוסה in regards to other things, she is still לאסורה לכהן because any איסור בעילת אנוסה even באונס makes her a זונה, according to one opinion on ע"ב ג' ע"ב. If we maintain that she doesn't become a באונס זונה than our גמרא must be understood to mean זונה מדרבנן. (See (ריטב"א)).

Yevamos has been dedicated in ל"ג Shelly Mermelstien ז"ל יצחק מערמלשטיין ז"ל

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Gutterman, please visit our website, dafaweek.org, or download the app

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